PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEITER: A bill (H. R. 11900) for the relief of Joseph J. Neiser; to the Committee on Naval Affairs.

By Mr. CASEY: A bill (H. R. 11901) for the relief of Henry Werre; to the Committee on Claims.

By Mr. EICHER: A bill (H. R. 11902) granting a pension to Idora B. Stucker; to the Committee on Pensions.

By Mrs. GREENWAY: A bill (H. R. 11903) for the relief of Arthur Lee Dasher; to the Committee on Military Affairs.

By Mr. KELLER: A bill (H. R. 11904) for the relief of Samuel Cripps; to the Committee on Claims.

Also, a bill (H. R. 11905) for the relief of Arthur Smith; to the Committee on Military Affairs.

Also, a bill (H. R. 11906) for the relief of Jessie T. Zappa; to the Committee on Military Affairs.

By Mr. KNIFFIN: A bill (H. R. 11907) granting an increase of pension to Phebe L. Alspaugh; to the Committee on Invalid Pensions.

By Mr. McGROARTY: A bill (H. R. 11908) granting a pension to Mary A. McCullough; to the Committee on Invalid Pensions.

By Mr. O'NEAL: A bill (H. R. 11909) for the relief of Leo J. Moquin; to the Committee on Military Affairs.

Also, a bill (H. R. 11910) for the relief of Amelia K. Abel, administratrix of the estate of Louis Abel; to the Committee on Claims.

By Mr. SANDERS of Louisiana: A bill (H. R. 11911) for the relief of Sudie Kennon; to the Committee on Claims.

Also, a bill (H. R. 11912) for the relief of Geraldine Dyson; to the Committee on Claims.

By Mr. SMITH of West Virginia: A bill (H. R. 11913) for the relief of Charles Tabit; to the Committee on Claims.

By Mr. THOMASON: A bill (H. R. 11914) for the relief of Joseph John Douglas; to the Committee on Naval Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

10556. By Mr. CULKIN: Petition of 64 residents of Jefferson County, N. Y., urging that legislation be passed this session to extend indefinitely existing star routes and to increase the compensation thereon in proportion to other mail routes; to the Committee on the Post Office and Post Roads.

10557. By Mr. LAMBERTSON: Petition of Rural Hope Club of Jefferson County, Kans., urging a foolproof neutrality law; to the Committee on Foreign Affairs.

10558. By Mr. PFEIFER: Petition of the Brooklyn Chamber of Commerce, Brooklyn, N. Y., concerning the Healey bill (H. R. 11554); to the Committee on the Judiciary.

10559. Also, petition of the Brooklyn Chamber of Commerce, Brooklyn, N. Y., concerning the Lundeen bill (H. R. 10595); to the Committee on Interstate and Foreign Commerce.

10560. Also, petition of the Brooklyn Chamber of Commerce, Brooklyn, N. Y., concerning House bill 9961; to the Committee on Interstate and Foreign Commerce.

10561. Also, petition of the Shippers' Conference of Greater New York, concerning the Pettengill bill (H. R. 3263); to the Committee on Interstate and Foreign Commerce.

SENATE

THURSDAY, MARCH 19, 1936

(Legislative day of Monday, Feb. 24, 1936)

The Senate met at 12 o'clock meridian, on the expiration of the recess, the meeting being in executive session under the unanimous-consent agreement entered into March 12, instant.

The VICE PRESIDENT. Under the unanimous-consent agreement entered into on March 12, instant, the Senate automatically goes into executive session to consider the nomination of Edwin R. Holmes to be United States circuit judge, fifth circuit.

THE JOURNAL

As in legislative session,

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Wednesday, March 18, 1936, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Costigan	Lewis	Reynolds
Ashurst	Davis	Logan	Robinson
Austin	Dickinson	Lonergan	Russell
Bachman	Donahey	Long	Schwellenbach
Bailey	Duffy	McGill	Sheppard
Barbour	Fletcher	McKellar	Shipstead
Barkley	Frazier	McNary	Smith
Benson	George	Maloney	Steiwer
Bilbo	Gibson	Metcalf	Thomas, Okla.
Black	Glass	Minton	Thomas, Utah
Brown	Gore	Moore	Townsend
Bulkley	Guffey	Murphy	Truman
Bulow	Hale	Murray	Vandenberg
Burke	Harrison	Neely	Van Nuys
Byrd	Hatch	Norbeck	Wagner
Byrnes	Hayden	Norris	Walsh
Capper	Holt	O'Mahoney	Wheeler
Caraway	Johnson	Overton	White
Clark	Keyes	Pittman	
Connally	King	Pope	
Copeland	La Follette	Radcliffe	

Mr. LEWIS. I announce that the Senator from Alabama [Mr. BANKHEAD] and the Senator from Florida [Mr. TRAMMELL] are absent because of illness; and that the Senator from Washington [Mr. BONE], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Massachusetts [Mr. COOLIDGE], my colleague the junior Senator from Illinois [Mr. DIETERICH], the Senator from Nevada [Mr. McCARRAN], the Senator from Maryland [Mr. TYDINGS], the Senator from California [Mr. McADOO], and the Senator from Rhode Island [Mr. GERRY] are necessarily detained. I ask that this announcement stand of record for the day.

Mr. VANDENBERG. I announce that my colleague the senior Senator from Michigan [Mr. COUZENS] is detained at home by illness. I ask that this announcement stand for the day.

Mr. TOWNSEND. I announce that my colleague the senior Senator from Delaware [Mr. HASTINGS] is necessarily absent.

The VICE PRESIDENT. Eighty-one Senators have answered to names. A quorum is present.

RECOVERY FROM THE DEPRESSION

Mr. WAGNER. As in legislative session, I wish to make a very brief statement, and then I am going to request unanimous consent to have a speech printed in the RECORD.

The VICE PRESIDENT. Is there objection to the Senator from New York proceeding as in legislative session? The Chair hears none, and the Senator from New York is recognized.

Mr. WAGNER. Mr. President, every new development, such as the recent reports on income-tax returns, bears evidence of the phenomenal recovery of business during the past year. This improvement has now reached the stage where it cannot be denied by anyone. There is room only for explanation as to what has brought it about. One explanation, which we may call rational, is that progress has been stimulated by the Roosevelt policies, by applying an affirmative remedy to the troubles that beset the farmer, the home owner, the banker, the businessman, and the worker. The other explanation, which we may call irrational, is that the recovery, like the depression, just happened by accident. Some of those in this second school of thought go even further. They claim that the gains would have come even faster if we had done nothing, and that the New Deal is waving a red banner and trying to flag down the train of progress.

I should like to call to the special attention of these critics, who try so frantically to cut the thread of relationship between the New Deal policies and recovery, to a speech made just a year ago by one of the leading businessmen of the Nation. I refer to the Honorable Joseph P. Kennedy, of New York, recent Chairman of the Securities and Exchange Commission.

His speech was delivered before the American Arbitration Association, New York City, on March 19, 1935.

Mr. Kennedy spoke at a time when many businessmen felt blue. Although there were already unmistakable signs of better times, they were afraid of the new things that the Govenment was doing. They were particularly worried by the activities of the Securities and Exchange Commission. They thought they saw in this agency a further design to impose horrible shackles upon industry, and to convert our country from a democracy into a bureaucracy.

Mr. Kennedy, at this opportune moment, stressed two vital issues. In the first place, he traced brilliantly the history of the abuses that had produced the need for the Commission and for the other regulatory activities of the New Deal. But more important he predicted that within a year's time the beneficial effects of these new reforms would be hailed, not only by those connected with the marketing of securities but also by businessmen in general. He prophesied that the country would take tremendous strides forward during 1935.

Every one of Mr. Kennedy's words has come true. He had the courage to predict in advance what our policies would accomplish. Now that the execution of the policies has confirmed the prediction, there is no room to quibble about cause and effect. The record speaks for itself.

On the occasion of the first anniversary of Mr. Kennedy's speech, I want to commend him to the Senate, not only for the statesmanlike quality of his address, but also for the statesmanlike quality of his actions when participating in so important a phase of the New Deal. His example and his influence are still manifest in Washington and throughout the country.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD Mr. Kennedy's speech to which I have referred.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS OF HON. JOSEPH P. KENNEDY, CHAIRMAN OF SECURITIES AND EXCHANGE COMMISSION, BEFORE AMERICAN ARBITRATION ASSOCIATION, NEW YORK CITY, MARCH 19, 1935

It would be difficult to pretend indifference to the warmth of your greeting. I thank you for it and rejoice in the opportunity given me to talk to your association at just this time.

For, after all, this is New York, the barometer of the Nation's business. I have lived in New York, shared its prosperity in former years, and hope and expect to again. I therefore claim the privilege of speaking frankly to you about matters of common concern. And in all frankness I must say that this ace of American cities is not giving a good account of its stewardship as the pace setter of business enterprise. Those whom I have been meeting recently in other sections of the country are unanimous in declaring that New York is the "bluest" spot in the country with respect to business morale. Indeed, one of your financial editors told you so in his column only a few days ago. And when New York is "blue", every other section of the country is confused and confounded.

Gentlemen, I am deeply concerned about the low state to which courage and confidence among businessmen have fallen. Moreover, because the rest of the country has a high estimate of the prophetic value of New York's opinion, you should be satisfied that your pessimistic frame of mind has a reasonable basis before you allow its influence to infect other communities. This industrial machine of ours is so delicate an instrument that opinion everywhere else is sensitive to its fluctuations here. And we must admit that, today at least, New York registers gloom and not sunshine; discouraging prophecies, not hopeful suggestions. As another clear-headed editorial observer stated the other day, "Cassandra has dethroned Pollyanna."

Let us see if this brooding is worthy of us; whether the "jitters" we talk about today isn't merely a manifestation of temporary ailments common to every generation in our history. Is there really any justification for the universal lament that things are worse today than ever before because today, in contrast to other periods, there is "too much Government in business"?

You may well question my right to drift so far beyond the pale of the technical subject matter of the Securities and Exchange Commission; but in the discharge of our specific functions we of the Commission have necessarily had to study attendant economic and social factors. Some first-hand knowledge of conditions leads me to suspect that those who despair of the future because of governmental activities are too often substituting guesswork for fact and emotion for reason.

I happen to head one branch of the Government which has been pointed out as the arch example of Government interference. Because of this fact I ask you to bear with me while I attempt to develop three points which I believe will be of interest to you.

First, I would like to show you from the testimony of an unimpeachable source the logic of the expansion of Government activities in the affairs of our daily lives; secondly, I wish to show you how one branch of the Government—the Securities and Exchange Commission—actually operates in those activities of our daily lives which are its concern; and, third, I hope by this demonstration of our objectives and activities to persuade you that it is cowardly and unmanly and un-American for one to blame the Government for his own lack of courage and enterprise.

Both the Securities Act of 1933 and the Securities Exchange Act of 1934 are the products of a civilization which had attained the ultimate of complexity in the daily routine of its life. Indeed, almost 20 years ago the sagacious Elihu Root said:

"We are entering upon the creation of a body of administrative law quite different from the old methods of regulation by specific statutes enforced by courts. As any community passes from simple to complex conditions the only way in which Government can deal with the increased burdens thrown upon it is by the delegation of power to be exercised in detail by subordinate agents, subject to the control of general directions prescribed by superior authority."

That in essence is your own method of procedure. If I understand correctly the purpose of the American Arbitration Association, you seek to take disputed matters out of the delays of courts and into the expediency of arbitration and conference.

This, gentlemen, I submit is government by commission. I cite Mr. Root's prophecy of law administered by Government agencies as my text, because I seek to enlist your support of our efforts to stimulate financial enterprise. To quicken the flow of money into business and to relieve the apprehension and fears of businessmen and bankers, which seem to have paralyzed corporate financing, should be a common ambition. I am persuaded that if I can remind the businessmen of America that the regulation of the business of dealing in securities is not the petulant imposition of discipline born of hatred and rancor, cooperation and response would be certain. If I can convince you that securities regulation was the inevitable and logical result of the complexities of life so accurately forecast by Elihu Root, there will be less "quitting" and more "carrying on" and fewer baseless nightmares about governmental control.

If I can show you further a practical reason for accepting and adopting the interpretative rules and regulations promulgated by the Commission, I am sure that you, as practical businessmen, will follow Mr. Root's admonition.

"There can be no withdrawal", he said, "from these experiments. We shall go on; we shall expand them, whether we approve theoretically or not, because such agencies furnish protection to rights and obstacles to wrongdoing, which under our social and industrial conditions cannot be practically accomplished by the old and simple procedure of legislatures and courts."

How well these words describe what Congress attempted when it said that the sale of securities was affected with a public interest. Surely the phrase "public interest" means "protection to rights and obstacles to wrongdoing."

That, gentlemen, is the objective of the Securities Commission. Make no mistake about the purpose of the legislation. Business must be financed. Those who do that financing—the investors—must be protected. Those who borrow that money—the businessmen—without whose initiative and courage there can be no country worthy of our history, must likewise be protected. If the tenor of the original 1933 act seemed to be largely or exclusively in the interest of the investor, let me say that the efforts of Congress and of the Commission since seem to have been in the interest of the borrower without impairing the rights of the investor.

In the complex setting in which we live and work and build, the necessity for a healthy regulation of the investment market must be apparent to all right-thinking people. We cannot turn back. It is idle to dream and wish for the return of a former day, with its unrestrained opportunity for unfair and dishonest practices. Our task is to face the future and with the aid of these regulatory laws to restrain the power of the strong over the weak. These laws are to be administered in the spirit of their enactment, protecting the investor and stimulating the free flow of capital into new enterprise. We have tried to encourage expansion by removing the obstacles of unnecessary procedural requirements and by minimizing the hardship of undue effort, the risk of liability, and the burden of expense. Our efforts, while they have received the approbation of even the most caustic critic, have brought little success in financing until some notable recent registrations. These, I am hopeful enough to believe, mark a turn in the road.

In my very first talk after taking office I said that the charge that pioneering and daring in business had been discouraged by the new securities legislation was insincere. Happily, some able businessmen have agreed. You cannot minimize the fact that the two major pieces of financing registered within the past fortnight have represented a true cross section of the country.

Forty million dollars in Chicago in the case of Swift & Co.

Forty-five million dollars on the Pacific coast in the case of the Pacific Gas Electric Co.

Only a trickling little stream of private corporation finance as yet, where before there was a flood tide. But the stream is large enough and representative enough to justify the statement that there is no longer any excuse left to the corporation which has hitherto hesitated to go forward with confidence.

Can any reasonable man say that the control of those great corporations is in the hands of men recklessly imprudent about the management of their affairs? And if these men, after careful consideration of all the problems involved, have concluded that there is no unreasonable liability, burden, or responsibility imposed by the new securities law, who dares to assert any longer that the Government has made corporate financing legally impossible?

Let me reiterate to emphasize. Can these men, representing some of the best minds and hearts in American business, be entirely wrong, and the hesitant majority who carpingly criticize the existing law, without taking the trouble to become informed concerning it, be correct? We know better.

Let us accept today's promise on its face. I am rash enough to believe that these recent registrations are harbingers of a real upward trend. Do not be disappointed if new financing is not a daily occurrence and business does not boom immediately. There will be lapses of course. A snow storm in March cannot delay the advent of spring. It is enough if the turn has been reached.

You will find upon reflection that although the Pennsylvania Railroad financing in the early days of the 1908 depression unquestionably foreshadowed recovery, the stride of business activity was not manifest for some months. Also, that when the Northern Pacific financed during the 1920–21 reaction, that event was hailed as foreshadowing recovery, but it was some months before the recovery was recorded. The fact is that able businessmen, wisely advised, have flashed a green light signaling that the road ahead is clear of disaster; that the hurdles of legal complexities, expensive fees, and laborious detail have been practically eliminated; that now there can no longer be any excuse for further delay.

For months we of the Commission have been advising business lawyers everywhere that the risks imposed upon honest business by the new legislation had been so greatly reduced by amendment and administration that the requirements today do not exceed those of the common law. Lawyers were not receptive at first and created a barrier which businessmen could not easily follow. The legal profession, naturally slow to embrace new legislation, and the businessman, proverbially timid to enthuse over innovations, have finally seen the light.

We expect some sizable financing will follow. We expect a declaration of faith in the future of our country such as has characterized American business at the turning point in every previous crisis. I urge you (businessmen) to seize the torch of leadership in this necessary crusade. For months it has been trite to say that business lacked confidence. That statement is still true. Business is better than confidence, but business today has an underlying courage which sadly lacks aggressive leadership. New York, which has been holding back largely because of misapprehension and unwarranted fears, we hope will provide that timely leadership.

Government regulation under the Securities Act will safeguard your financial structure, not penalize your initiative. Government regulation affords you accessibility to legal counsel and corporation accountancy advice never before available to businessmen anywhere in the world. America's ablest business lawyers and accountants have cooperated with the Securities and Exchange staff in setting up the registration forms which leading corporations have accepted as their guideposts on the road to financial stability. The most powerful businessman and the richest investor could never have had access to such authentic advice as was cheerfully and freely placed at the disposal of the Government in the studies which led to the adoption of present registration forms.

So I say to you—and I now speak having in mind the example of seasoned practical leaders—that the road to new financing so necessary to recovery has been cleared for you. Money and credit, the lifeblood of profitable business enterprise, have glutted the market recently. The cheapest thing in the world today is money. Cheap money and lack of business confidence are synonymous. But courage is returning and money may not always be cheap. Stockholders and investors will be served if business is now fortified against the financial vicissitudes of the future. Accept the fine example of these business leaders and resist the small-minded critic who sees evil in every Government agency. Wherever you lead, the rest of the country will follow, and 60 days before anyone knows it the victory over doubt and despair will have been won.

It is true, unfortunately, that at present the Street has apparently very little basis for optimism if the present volume of trading be considered the sole index of the future. But all intelligent men know that the present figures are far below normal; they belong with gloomy predictions about the future of the business which I believe are premature and unsound.

But this much I do know and make bold to state. The confidence of the investor has been so completely shaken that, regardless of blame or justification, it required an agency such as our Commission to help regain this lost confidence; to restore the shattered prestige of the business. In the work of protecting the investor, particularly the small investor, against unfairness and dishonesty, we are the recipients of numerous complaints daily. As one might expect, fraudulent charges are made most frequently. Misleading and incomplete prospectuses, manipulations, and the circulation of deceptive information—in other words, charges arising out of the new legislation of 1934—are far less frequent. The old standard complaints of "bucket shop" and "sell and switch" swindles have not disappeared.

Even a cursory review of the recent history of security swindling amazes one. The shrewdness, cleverness, and daring of these trade pirates cannot be minimized. With a remarkable, almost psychic sense of what the public is likely to "fall for", these racketeers constantly shift their wares and their technique. In fashionableness and up-to-dateness they rival the Parisian modiste. Colonel Lindbergh flew the Atlantic, and before he returned the country was flooded with aviation stocks, capitalizing the Nation's latest thrill. A substitute for silk was advertised, and rayon stock swindlers pound the doors of unfortunate victims. The Sunday magazines feature the electric eye, the photoelectric cell, and the glib man from the "boiler shop", aided by the tipster sheet, speaks caressingly of the golden dawn of tomorrow's wealth. The Government abolishes the domestic market for gold, and mines long since abandoned are glorified in the language of fantastic promises to catch the unwary sucker, the only requisite being a hole in the ground, a ladder, and a feverish imagination. How reminiscent of Mark Twain's definition of a mine. "A hole in the ground owned by a liar." Remonetization of silver is discussed, and a flurry of silver mines with romantic names occupy the interest of the security underworld. Beer comes back, and its return is heralded by fraudulent brewery and beer-barrel stocks. Comes repeal and with it the intoxicating supersalesmanship of the distillery promoter. All of these are compelling evidence of the astonishing energy of the crook and the appalling credulity of the public.

Let me assure you that I have no intention of creating in your mind an inference that all promotions of stock in the various enterprises I have enumerated are fraudulent—far from it. Many of them are sponsored by honest and energetic individuals, but whenever a reputable company capitalizes something new there are the racketeers at all times ready to pass off their worthless wares for the sound securities of the honest promoter.

Let me relate to you a recent one. You can't guess it: It's potash. As you know, potash is used chiefly as an ingredient of fertilizer and is a very earthy substance. In this case the promoter reminds one of "the man on the flying trapeze." For his balance sheet he modestly claims a value of $3,000,000 for leases held by the company. Unfortunately, the company owned but one lease and the royalty charge was so high that even if it contained the richest deposit in the United States it could operate only at a loss. The contract rights were in fields where no commercial potash had ever been found, and even if the potash had been found, Federal regulations prohibited mining operations on this property. The prospectus is guaranteed to excite the envy of the Ananias Club. It lies about the value, earnings, geography, geology, metallurgy, economics, and history. A close examination convinced us that the only truth in the whole prospectus was the address to which you are invited to send your money. So much for potash.

So you see, gentleman, the magnitude of interstate frauds, the comparative helplessness of State officials limited by State boundaries, is a complete vindication of our intervention in this field.

In addition to its other work, the Commission, at the request of the Congress, is conducting a special study of reorganization and protective committees. This report is desired by Congress as a basis for intelligent legislation. It is hoped and believed that this study will constitute a significant contribution to the annals of American finance and will accomplish long-needed reforms in our reorganization system, a field where unfairness and overreaching has been the normal experience.

Students of the subject have long been aware of the need for thorough-going reform and revision of the reoganization system. That system has grown up unregulated and uncontrolled for the most part. During the current depression it has assumed gigantic proportions, with the result that there is hardly an investor in the land who is not somewhat affected by it, and hardly a court in the land which is not confronted by the problems which it raises.

The reorganization system in the past has proceeded largely on the basis of private initiative. The drive and incentive for consummating reorganizations has been in large part the desire for profit on the part of the reorganizers. This desire for profit has not always been compatible with the interests of the investors. Consequently there have resulted in many parts of this country vicious forms of racketeering by promoters of reorganizations. In many reorganizations we have found there exists a growing evil in the blackmailing tendency of certain individuals who by threats and suits and otherwise seek to embarrass the orderly administration of the enterprise in order to capitalize their nuisance value. For these reasons investors have had to pay a heavy toll. The designation "protective" committee has a misleading significance when the parties in control use their power to protect themselves at the expense of investors. Here we find the constant application of the materialistic philosophy that might is right.

It will never be possible for this Commission, any more than any other department of the Government, to transform into sound securities bonds, notes, and stock which never should have been issued. Nor will it be possible to design a reorganization system which will repair and restore losses which have been suffered. Substantial progress, however, can be made toward designing a reorganization system which will safeguard the interests of the investors and prevent their exploitation for or on behalf of promoters and foster the creation of sound successor companies. No new statutes or regulations can dispel the aura of disappointed hopes that surrounds every reorganization. Constructive measures can be taken to curb and control the fraudulent and unethical practices which have been so prevalent in that field of finance.

Time prevents my dealing in detail with the Commission's activities in promulgating forms and rules and regulations. It is suffi-

cient to state that they have been well received by the bar and business alike.

Closely related to nearly every other aspect of the Commission's activities is the problem of the over-the-counter markets. It is probably the most difficult and most complex single problem before the Commission. Constantly we are asked what our plans are for controlling this so-called over-the-counter market. Shortly we shall publish the first step in our program, and in conformity with our established system the regulations will have been promulgated only after a thorough discussion with representatives of the business affected. As in the case of our first steps in exchange regulation last fall, our assumption of control shall be gradual so that needless friction and annoyance may be avoided. In this field, as well as on the organized exchanges, the investigation by the Senate Committee on Banking and Currency disclosed numerous fraudulent, unfair, and other undesirable practices which have been eradicated in the interest of the investing public.

Congress would have seemed very naive if it intended this form of trading to go unrestrained. It is our plan, gentlemen, to carry out the definite will of the Congress in this respect so that, by the rules and regulations we shall prescribe, there will be insured to investors protection comparable to that provided in the case of national securities exchanges. The problems are being studied with the counsel and assistance of the country's security dealers.

This, gentlemen, is the story of Government supervision of the security business. Is there anything here that suggests persecution? Aren't we all too Government-conscious?

Things never are quite as hopeless as they are made to appear by fear, and never in the past 2 years has there been such fearing of fear itself as there is today. It is the cold hand of death on business initiative. Men see business sustained at a rate which would have been considered impossible 2 years ago, yet they continually cry out against the uncertainty of things.

Business is still not only better than confidence; it is better than we deserve to have it. We have not matched results with our courage. We have not been grateful enough for a 34-percent increase in general business, for the practical rehabilitation of the great motor industry, and for the sound revamping of other industries.

We have not used these experiences of genuine improvement as springboards to greater efforts. We talk about future uncertainties, ignoring present definite indications of progress. We seek assurance against the unforeseen, forgetting that risk and uncertainty have always been the ordinary incidents of business.

We continually ask, "Where are we headed?" I answer emphatically that we are still heading for the recovery and reform originally proclaimed by the administration in May 1933 as its goal. Why conjure up legislative monstrosities that will never see the statute books? Why not address our minds to business? In the midst of gloom last fall a voice sounded out of the wilderness—the voice of a single automobile manufacturer—to prepare for a record business in 1935, undertaking himself to produce and distribute 1,000,000 cars. The effect was immediate and dramatic. Competitors stopped their wishful thinking, went to work with confidence, and as a result automobile production so far this year is 47 percent larger than the output of the same period a year ago.

Frankly, I believe that many of the worries that impede business at the moment are unnecessary. I cannot forget an old adage oft quoted under similar conditions in the past: "Today is the tomorrow that you worried about yesterday, and it never happened." Most of the things we worry about today will never happen. As I said before, recently in Chicago, speaking of the relation of the Commission to business, "There is not the slightest thought of elimination or restricting proper profits, and I, for one, have no patience with the view that every man who has a dollar or wants to make one is a public enemy * * *." I have less patience, however, with that man who, blessed in a worldly way by the opportunities of living in America, smugly wraps the mantle of selfishness about him in a cowardly refusal to wager on our common future.

Do not let such a man tell you he is afraid of confiscation; afraid of socialization; afraid of government. Politics is the science of government. Politics is the living breath of representative democracy. Politics of a sort has been the lot of this Nation since Cornwallis' surrender. Politics troubled the last days of George Washington, harrowed the earned leisure of Lincoln, ruined the evening of Woodrow Wilson's life. Had the businessmen of those earlier days abandoned their jobs and committed industrial suicide because of politics, this Nation would never have advanced an inch. Let us stop talking politics to the exclusion of business. Every legislative step of importance since the Constitution was written was claimed by critics as foreshadowing doom. And after every attack of nerves, immeasurable progress resulted.

Let me illustrate with some examples of dire prophecies:

"On account of governmental and legislative attacks on corporate activities and on wealth and capital, enterprise has come to a halt and a blinding paralysis is spreading all over their industrial organization. There can be no enduring recovery until the causes responsible for this state of things shall have been removed."

When do you think this was written? It is a financial editorial of February 1908.

Here is another:

"The closed mill and empty dinner pail will be as conspicuous as in 1896. The future outlook is disastrous, and I hope it will not be enduring. The situation is appalling. It cannot be exaggerated."

When do you think that was written? It was the utterance of the chairman of the Senate Finance Committee in December 1920. In the 10 years following the 1908 forecast the industrial output in this country increased 52 percent. In the 10 years following the 1920 outburst the industrial output increased 55 percent.

So you see the futility of taking counsel of present-day fears.

You cannot chart politics. You cannot sit down and draw some crooked lines showing where the fluctuations of political sentiment are likely to lead. Then why watch politics exclusively?

Instead, let us stick to the one formula we all know—"business as usual." Never did this country need that slogan more than it does today. Box the compass of your own industry. Plan your future requirements. Cut your cloth according to your pattern, as the motor industry has done. Invest in America. Its people have purchasing power, cash reserves, bank balances, and savings accounts. Hoarding, mental hoarding, and spiritual hoarding keep these resources in hiding. The great American people, whose common sense solved every crisis in their history, have never failed to respond to sane, courageous business leadership.

So I appeal to you, "Be yourselves." Don't dodge the duties of citizenship by blaming Government interference for the lack of business initiative and enterprise. Government interference—politics, if you will—we have always had with us, yet our predecessors went ahead and developed this marvelous land which we enjoy today.

Let us imitate them. Talk and think and dream business progress today and tomorrow.

In closing I should like to leave with you the thoughts of one of your New York poets, Wallace Irwin. They dispose so effectively of those of us who magnify our troubles that I shall read them and then take leave of you.

I entitle them "A nautical diagnosis of a businessman, 1935 model":

"Suppose that this here vessel," says the skipper with a groan,
"Should lose 'er bearings, run away, and bump upon a stone,
"Suppose she'd shiver and go down, when save ourselves we couldn't."
The mate replies, "Oh, blow me eyes, suppose again, she shouldn't."

* * * * * * *

"I read in the statistics books," the nervous skipper cries,
"That every minute by the clock some fella ups and dies.
I wonder what disease they get that kills in such a hurry."
The mate, he winks, and sighs, "I think, they mostly dies of worry."

* * * * * * *

"Of certain things," the skipper sighs, "me conscience won't be rid,
"And all the wicked things I've done, I sure should not have did.
"The wrinkles on me inmost soul compel me oft' to shiver."
"Yer soul's first rate," observes the mate, "the trouble's with your liver."

During the executive session, by unanimous consent, the following legislative business was transacted:

PETITIONS

The VICE PRESIDENT laid before the Senate a concurrent resolution of the Legislature of the State of New Jersey, memorializing the Federal Government to accept the immediate responsibility for relief and employment of transients, which was referred to the Committee on Appropriations.

(See concurrent resolution printed in full when presented today by Mr. BARBOUR.)

Mr. BARBOUR. Mr. President, I ask consent to have printed in full in the RECORD and appropriately referred a concurrent resolution adopted by the Legislature of the State of New Jersey requesting the National Government to accept the immediate responsibility for relief and employment of transients.

The concurrent resolution was referred to the Committee on Appropriations and ordered to be printed in the RECORD, as follows:

Concurrent resolution requesting the National Government to accept the immediate responsibility for relief and employment of transients

Whereas industrial, legal, and financial conditions created by the prolonged economic depression have dislodged thousands of men, women, and children from their normal occupations and places of legal settlement, have thrown them, in their extremity, into communities where they are alien and have no legal right to relief; and

Whereas the Federal Government in the last 2 years by its program of relief and work for transients has demonstrated that it is possible on a national scale to alleviate the condition; and

Whereas the experience of these 2 years has further demonstrated that transiency is an interstate problem and that it has its migratory labor and other situations that are beyond the control of the individual States; and

Whereas the abandonment by the Federal Government of the relief program for these persons is returning these unfortunate, unsettled people to chaos and hopelessness, since they and the communities in which they find themselves lack the means to solve their problems; and

Whereas most States cannot legally use State funds to relieve unsettled persons, and residual Federal funds in the hands of State agencies are now practically exhausted; and

Whereas the interstate conference on transient relief held on March 6 and 7, 1936, at Trenton, N. J., represented by 21 States east of the Mississippi, unanimously agreed to press the Federal authorities to take such action: Now, therefore, be it

Resolved by the House of Assembly of the State of New Jersey (the senate concurring), That the Legislature of the State of New Jersey by concurrent resolution hereby memorialize the Federal Works Progress Administration and the Congress of the United States to accept the immediate responsibility for relief and employment of transients, and we urge that this relief in employment be made effective through permanent departments of State government and coordinate local units of administration, and that funds be made available by the Federal Government on a grant-in-aid basis; be it further

Resolved, That copies of this resolution be transmitted by the secretary of the senate to the President of the United States, the Federal Works Progress Administrator, the Secretary of the Senate, the Clerk of the House of Representatives, and to each Member of Congress duly elected from the State of New Jersey.

REPORT OF A COMMITTEE

Mr. SCHWELLENBACH, from the Committee on Claims, to which was referred the bill (S. 2553) for the relief of C. C. Young, reported it with amendments and submitted a report (No. 1709) thereon.

ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on March 18, 1936, that committee presented to the President of the United States the following enrolled bills:

S. 2664. An act to aid in defraying the expenses of the Third Triennial Meeting of the Associated Country Women of the World, to be held in this country in June 1936; and

S. 3173. An act for the relief of certain formerly enlisted members of Battery D, One Hundred and Ninety-seventh Coast Artillery (Antiaircraft), New Hampshire National Guard.

BILLS AND A JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. RUSSELL:

A bill (S. 4311) for the relief of Cora Fulghum and Ben Peterson; to the Committee on Claims.

By Mr. ROBINSON (for Mr. TYDINGS):

A bill (S. 4312) to authorize the issuance of a special series of stamps commemorative of the seventy-fifth anniversary of the Battle of Antietam; to the Committee on Post Offices and Post Roads.

By Mr. SHIPSTEAD:

A bill (S. 4313) granting an increase in retired pay to Frank E. Monville; to the Committee on Military Affairs.

By Mr. McKELLAR:

A bill (S. 4314) to provide for adjusting the compensation of division superintendents, assistant division superintendents, assistant superintendents at large, assistant superintendent in charge of car construction, chief clerks, assistant chief clerks, and clerks in charge of sections in offices of division superintendents in the Railway Mail Service, to correspond to the rates established by the Classification Act of 1923, as amended; to the Committee on Post Offices and Post Roads.

By Mr. COPELAND:

A bill (S. 4315) to provide for the controlling of floods on the rivers of the United States, and for other purposes; to the Committee on Commerce.

By Mr. SHEPPARD:

A bill (S. 4316) to amend the retirement laws affecting certain grades of Army officers; to the Committee on Military Affairs.

By Mr. COPELAND:

A bill (S. 4317) to authorize the Secretary of War to grant to the city of Buffalo, N. Y., the right and privilege to occupy and use for sewage-disposal facilities part of the lands forming the pier and dikes of the Black Rock Harbor improvement at Buffalo, N. Y.; to the Committee on Commerce.

A joint resolution (S. J. Res. 236) to amend the joint resolution (Public Res. No. 67, 74th Cong.), approved August 31, 1935, relating to the neutrality of the United States; to the Committee on Foreign Relations.

AMENDMENT TO DEFICIENCY APPROPRIATION BILL

Mr. KEYES submitted an amendment intended to be proposed by him to the deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

At the proper place in the bill to insert the following:

"For the Federal Emergency Administration of Public Works, $11,300,000, to be expended for carrying out the non-Federal flood-control projects in the State of New Hampshire described in Federal Emergency Administration of Public Works dockets nos. NH–1021, NH–1025, and NH–1041."

RELIEF OF PERSONS IN FLOOD-STRICKEN AREAS

Mr. DAVIS. Mr. President, during the last few days thousands of the citizens of this country have been driven from their homes because of raging floods. Conditions throughout the Johnstown-Pittsburgh area are unspeakably bad. I do not recall a time during the last 50 years of intimate association with that section of the country when such havoc has been wrought by uncontrolled and flooded rivers.

According to the latest press reports, this flood condition extends from New Hampshire and Vermont on the north to southern Virginia on the south, and from Pittsburgh on the west to the Atlantic coast on the east. Estimates indicate that 25,000 persons have already been rendered homeless. The greatest devastation has overwhelmed the Johnstown-Pittsburgh area. In Johnstown the dead are estimated at from 3 to 20, with estimates of homeless running from 2,000 to 10,000. The great dams above the city, the breaking of which resulted in the disastrous flood of 1889, when more than 2,000 persons were killed, were holding, according to the latest reports. However, the city has been coated with mud, and in some places the water has been 28 feet deep.

In Pittsburgh the section known as the Golden Triangle, which includes the city's skyscrapers, was under 10 feet of water. Thousands of persons have been marooned on the upper floors of office and business buildings. In the district which lies between the Monongahela and Allegheny Rivers, banks, theaters, department stores, and the stock exchange were closed. Newspaper offices were flooded and the power lines were broken. Adding to the horror was a series of fires in homes and industrial plants. Firemen were seriously handicapped by the high water. The damage to property mounting to millions upon millions of dollars, the loss of homes, the loss of life, and danger to health have been beyond possible calculation, and words cannot convey an adequate idea of the distressing condition.

Mr. President, while I speak of Pittsburgh, I am not unaware of the situation which threatens the lives and property of our people periodically throughout the East and Middle West. We have long been confronted with the problem of flood control on the Mississippi River. Substantial measures are now in progress to improve the situation there. But, as I now speak, flood waters are lapping at the doors of residents in eight States in the worst catastrophe of its kind in nearly half a century. By walking to the dome of the Capitol anyone of us may view the damage wrought by the flooded Potomac. Millions of dollars of property has been destroyed by the muddy wall of water now rolling down the Potomac Valley.

Mr. President, I am not unmindful of these conditions of disaster which present problems of flood control in many parts of the country, but I should like to state that western Pennsylvania is in special need of consideration owing to the fact that it is so largely a region where great rivers join together. The Tygart, the Buchannon, and the West Fork merge into the Monongahela, which in turn is joined at McKeesport by the Youghiogheny. The mighty Ohio, Allegheny, and Monongahela Rivers are now pouring their roaring floods into the Pittsburgh area. This exercises a tremendous flood effect on southwestern Pennsylvania, northern West Virginia, and northwestern Maryland.

As a result red canoes are paddling down Wood Street past Roberts' jewelry Store at Fifth and Diamond in Pittsburgh, and down on Penn Avenue motorboats are running around taking people out of the business buildings. A majority of people in Pittsburgh live up in the hills, but the

business section is down in the valleys where the flood waters are now destroying so much property.

Measures of a temporary nature have already been taken by State and Federal authorities to rescue the victims of the flood and to provide against the spread of sickness and epidemic. However, these are but temporary measures, and they cannot be expected to meet the present emergency unless they are supplemented by special appropriations from Federal funds. President Roosevelt has appointed an emergency flood relief committee and the Army has been instructed to extend full aid toward the prevention of further loss of life and destruction of property. The Red Cross has ordered its trained disaster workers to speed to the points of greatest need, and their efforts are being supported by several thousand volunteer chapter workers. Robert E. Bondy, national disaster relief director for the Red Cross has gone to Johnstown to superintend relief activities from that point. All honor to the noble Red Cross and its heroic workers. Voluntary contributions are now being raised to meet the needs of homeless citizens. But the emergency is so great that I advocate a special appropriation of Federal funds be made immediately to assist the victims of this flood disaster.

Measures of this kind are necessary at once. However, they do not insure protection against the repetition of this disaster, and this we should earnestly consider. Flood control is now being carried on at various places in the country and is desperately needed in the Johnstown-Pittsburgh area. Work for 50,000 or 60,000 men of great and permanent value to the Nation could be started at once if W. P. A. funds were now made available at prevailing wage rates for adequate flood-control projects. This would be an expenditure of lasting value to the country as a whole and would set a higher standard of work-relief projects. I advocate that Federal funds for this purpose be made available at once.

In April 1934 the President's Committee on Water Flow made its report. In that report the project proposed for the Allegheny River included:

First. The extension of the existing 9-foot navigation project, at a cost of about $2,650,000, and completion of pending investigations of the desirability of making further extension of the navigable channel.

Second. The step-by-step development over a period of years of a system of flood-control reservoirs for the reduction of floods on the Allegheny and Ohio Rivers, eventually to include eight reservoirs, at a cost of about $53,406,000.

The Water Flow Committee report also included a project for the Monongahela River calling for the completion of the Tygart Reservoir, at a cost, in addition to funds already provided, of about $9,000,000.

I now quote from the committee report on page 219:

> The Ohio River Valley is subject to destructive floods. Over 90 percent of the damage is sustained by the numerous towns, cities, industries, and railroads which line the banks of the stream. After a thorough study of the various means of flood control, it has been concluded that a system of flood-control reservoirs appears to be the most practical means of providing general flood relief for the Ohio River Valley. Approximately 90 possible reservoir sites throughout the basin have been studied. Thirty-nine sites were finally selected for a system of reservoirs believed to represent the best possible development, from an economic viewpoint, of a flood-control plan which would offer a fair general solution of the flood-control problem throughout the Ohio Basin. The proposed reservoirs are all situated on tributaries of the Ohio River above Cincinnati, and the system has a total capacity of about 7,418,000 acre-feet. The estimated total first cost is about $210,000,000. The total annual cost, including finance cost at 4 percent and maintenance cost, is estimated at about $9,071,000.

Mr. President, I am convinced that the time has come when we shall be guilty of criminal negligence if we do not take practical measures at once to protect the lives and property of the people whose destiny is so closely allied with proper flood-control projects.

Projects of these proportions which fit in with the proposals of departmental committees based on years of intensive investigation and practical experience afford an opportunity for work relief of a high order. Man power and money invested in work of this kind would bring permanent dividends to the Nation in giving work to the unemployed and protection of life and property in flood-endangered areas. If we are to have work relief, I believe that so far as possible it should be used to serve practical ends. I am confident that no better expenditure of work-relief money could be made than to follow the suggestions of the President's Committee on Water Flow as I have stated them.

Work relief on practical projects of this kind should be given to qualified workers at prevailing wage rates, so that the work will be accomplished efficiently and so that those who do the work will have a decent standard of living for their families.

Mr. President, I ask that the resolution which I now submit to the Senate be read by the clerk and referred to the Appropriations Committee for appropriate action.

There being no objection, the resolution (S. Res. 259) was read and referred to the Committee on Appropriations, as follows:

Resolved, That the President is hereby requested to transfer immediately the sum of $3,000,000 to the American Red Cross, out of relief funds already appropriated, to be used by it for the relief of persons in flood-stricken areas.

OPERATION OF FOREIGN AND AMERICAN SHIPS IN THE FOREIGN TRADE

Mr. ROBINSON (for Mr. TYDINGS) submitted the following resolution (S. Res. 260), which was referred to the Committee on Commerce:

Resolved, That the Secretary of Commerce is requested to furnish to the Senate, as soon as practicable, the following information: (1) A list of the most important acts of Congress governing the operation of American ships in foreign trade; (2) a brief summary of the handicaps which confront American-flag ships when competing with ships of a foreign flag; (3) show how these handicaps result in higher operating costs to the American shipowners; (4) whether it is the general practice of American shipowners to purchase fuel and supplies in this country or abroad, and the approximate annual amount of such purchases for all foreign-trade ships of the American merchant marine; (5) whether it is the general practice of foreign shipowners to purchase fuel and supplies in this country or abroad, and the approximate annual amount of such purchases for all foreign-flag ships trading with the United States and its possessions; (6) the estimated percentage of the relative operating costs of ships flying the flags of Great Britain, Germany, France, Italy, and Japan, on the basis of 100 percent for ships flying the flag of the United States; (7) the percentage of American trans-Atlantic cargo carried by American-flag ships, and the percentage carried by foreign-flag ships; (8) the percentage of American trans-Pacific cargo carried by American-flag ships, and the percentage carried by foreign-flag ships; (9) the profit or loss of the six American lines operating the largest American-flag tonnage for the years 1926, 1928, 1930, 1932, 1934, and 1935; (10) the operating expenses of the same lines for the same years and their gross incomes for such years; (11) how many of such lines held mail contracts, either on a poundage or per-mile basis, and the aggregate amount of money paid to them under such contracts; and (12) what formula do you generally recommend as a matter of United States policy which would deal fairly with all shipping lines, large or small, for the carrying of the mail.

RELIEF OF FLOOD-STRICKEN AREAS IN PENNSYLVANIA

Mr. GUFFEY. Mr. President, the appalling conditions that are daily appearing in the press describing the ravages of floods in the State of Pennsylvania require the cooperation and assistance of the Federal Government and the American Red Cross. I submit a resolution requesting the President of the United States to transfer $10,000,000 of Emergency Relief appropriations to the American Red Cross for use in relief to flood-stricken areas in my State, and I ask that it be referred to the Committee on Appropriations for prompt action.

There being no objection, the resolution (S. Res. 261) was referred to the Committee on Appropriations, as follows:

Resolved, That the President of the United States be, and he is hereby, requested to transfer from appropriations under the Emergency Relief Appropriation Act of 1935 the sum of $10,000,000 to the American Red Cross for use in relief to flood-stricken areas in the State of Pennsylvania during the present emergency.

RELIEF OF FLOOD-STRICKEN AREAS IN WEST VIRGINIA

Mr. NEELY submitted the following resolution (S. Res. 262), which was referred to the Committee on Appropriations:

Resolved, That the President of the United States be, and he is hereby, requested to transfer from appropriations under the Emergency Relief Appropriation Act of 1935 the sum of $5,000,000 to the American Red Cross for use in relief to the victims of the flood-stricken areas in the State of West Virginia during the present emergency.

ADDRESS BY SENATOR BYRNES TO SOUTH CAROLINA TEACHERS' ASSOCIATION

Mr. ROBINSON. Mr. President, I ask unanimous consent to have printed in the RECORD an interesting and informative address delivered by the junior Senator from South Carolina [Mr. BYRNES] to the State Teachers' Association at Columbia, S. C., on March 13, 1936.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Ladies and gentlemen, I esteem it a happy privilege to address an organization having among its purposes the increased efficiency of the teachers of South Carolina, the promotion of their welfare, and the development of our system of education. If you counsel wisely, plan courageously, and renew your courage and devotion by coming together in this way, I am satisfied you will continue to hold the line for education, for knowledge, and for tolerance against ignorance and intolerance.

We are proud of our country. For that pride we have just cause. But men are apt to forget that success and lasting future are not assured because of a brilliant and successful past. The extent to which we progress is going to depend upon the manner in which we meet our common problem of common education. The present generation must not forget its responsibility to the Nation, and the State must not forget its responsibility to education.

The education of the youth of America cannot be laid aside for a year or a period of years. For in them lie the life and the spirit by which alone America renews herself. And yet only a few years ago we found the terms of our public schools being shortened, with the inevitable effect upon the next generation.

In 1932 and 1933 the State superintendent of education, in his annual report, pictured a demoralizing condition. With the inability of the State, the counties, and cities to collect taxes, and the resulting impairment of the credit of these governments, our schools necessarily suffered. We will not soon forget the curtailment of school sessions, particularly in the rural districts. Nor will we soon forget the number of teachers who were thrown out of employment and the reduction in the compensation of those who were retained.

The support of schools is a State function. Notwithstanding this, the Federal Government in the emergency, rendered material assistance to the educational system of South Carolina. Ordinarily, when people speak of those who during the depression were unemployed, they speak only of the laborer. Little sympathy has ever been expressed for the thousands who were employed in the professions such as teaching, and who were suddenly thrown out of employment. I do not know what would have become of them but for the relief measures of the United States Government. Without interfering with the school system of a State, and without changing its policy that education is the function of the State, the United States Government contributed money for the employment of teachers, just as aid was given to all other people in need, and thereby made it possible to extend the terms of rural schools and promote adult education.

Since 1933 the United States Government has contributed $2,642,000 to pay the salaries of teachers and aid students in the schools of South Carolina. During the same period $1,950,620 was contributed for school projects and $1,172,000 was loaned for educational buildings. The building program provided only for essential projects, urged by school officials, and which the State and its subdivisions were unable to construct. The program established no policy on the part of the United States Government to build schools for local governments. The Government does not seek to acquire jurisdiction over the schools constructed. The program, however, provided employment for persons on the relief rolls. Had this not been done, local governments would have been forced to construct these buildings, and this would have meant the collection of additional local taxes. We hear much about governmental waste, but I certainly do not consider as waste the money given to aid the schools and teachers of South Carolina.

President Madison is quoted as having said, "A people who mean to be their own governors must arm themselves with the power that knowledge gives." A people cannot thus arm themselves except by education. The fight for freedom is successful only to the extent that the fight for free schools is successful. And the success of our free schools is dependent upon the character and the ability of the teachers we place in charge of these schools.

Today, as never before, the people of this Nation are interested in the efforts to maintain government by the people. Through the press and over the radio conflicting views of government are daily presented. As teachers, as citizens, and as leaders of thought in your respective communities you are interested in these problems, because the correctness of their solution will affect you and those who look to you for guidance.

It is difficult for us to understand or appreciate the problems confronting us unless we have what is commonly called "the background." For 70 years, with the exception of a period of 16 years, the Republican Party was in control of the United States Government. Possibly because they were in control they believed in giving greater power to Federal Government. In any event, great power was conferred upon the Federal Government. Through the instrumentalities of tariffs, subsidies, and expenditures for public works the Federal Government developed certain sections of the country controlled by the dominant party, leaving other sections at the mercy of the favored States. The acts of Government contributed to a further accumulation of great fortunes in the hands of a few, and these few used that accumulated wealth to continue control of the Government in order to enrich themselves and impoverish the masses of the people. The extent of that accumulation is demonstrated by the income-tax returns of 1933.

Returns are made for families, and of the 27,500,000 families in the United States less than 1,800,000 had incomes above $2,500 on which Federal taxes had to be paid. Of this number, 325,000 reported incomes of more than $5,000 per year. There were 46 who had incomes of $1,000,000 or more per year. Now, think of that. Out of the 130,000,000 people in this country there were 46 who possessed such vast estates that their incomes in 1 year, after all deductions, amounted to $1,000,000 or more. If you were 1 of those 46, would you want to change the rules of the game or the provisions of law which had so favored you? Well, you might be so magnanimous, but I do not think any 1 of the 46 was ever heard to be in favor of a new deal.

But let us consider the other side of the picture. Over 25,000,000 families paid no income taxes. In other words, their incomes ranged from a mere nothing to $1,000, $1,500, and $2,500, with the great bulk below $1,000. I am not one of those who believe the Government owes every man a living, but I do believe that Government should use its power to furnish to every man and woman who is willing to work, an opportunity to earn an income sufficient to provide the necessities of life. This became impossible under the system of greed and privilege which had developed in the United States prior to March 4, 1933.

To correct this situation has been the underlying objective of every New Deal measure. Every heartbeat of your President is for the average man; yes—the forgotten man prior to March 3, 1933. It is among these average men and women of the country that you will find support for the New Deal, and it is these people who, notwithstanding the howling of the die-hards, are going to reelect Franklin Roosevelt President of the United States.

During the period of 12 years preceding March 4, 1933, the captains of industry were in more complete control of this Government than ever before in our history. They dictated the policies of this Government, and many little fellows, who were content to receive the crumbs that fell from their tables, urged a continuance of their dictatorship. The failure they made of Government will never be forgotten. I know they do not like us to recall conditions, but you will remember them. Schools were closing, teachers were being thrown out of employment or their salaries being reduced. The railroads were threatened with bankruptcy, and the Government had to consider taking them over. The insurance companies, to whom we looked in case of death for the protection of loved ones, were seriously crippled. In the cities people were driven from their homes; in the country they lost their farms. In the West, as some judges signed foreclosure decrees they were mobbed by angry people. It was estimated that 16,000,000 men walked the streets out of employment.

In New York City one night in January 1933, in company with a group of Senators and Congressmen, I was at the home of Governor Roosevelt, discussing the legislative program to follow his inauguration. We heard a noise. I thought it sounded like the cry of a mob. Afterward we learned that several thousand persons had been stopped by policemen a block from the Governor's home. They wanted to gather before his door and present to him and to the group of legislators their requests for food to relieve their hunger. They were hungry men. Hungry men are dangerous men.

The former President of the United States, Mr. Hoover, may not recall the serious conditions then existing; but I recall that just before the adjournment of Congress in 1932 he sent word to a subcommittee, of which I was a member, that while he advocated a reduction in the compensation of all Government employees, that an exception should be made as to the enlisted personnel of the Army and Navy because he did not know what would happen in the next few months and he did not want to have to rely upon an Army that might be dissatisfied because of a reduction in compensation. It was under such conditions that this administration came into power.

At that time we didn't hear any talk about the Constitution. We didn't hear the former Governor of New York, Alfred E. Smith, talking about the platform adopted at Chicago 9 months prior to that time. All we heard was the cry from the bankers, manufacturers, and businessmen of America that the President do something, do anything, to save the country. Well, the President and the Congress did do something. They could not follow the beaten path because that had been followed by the previous administration and had resulted in chaos. They had to blaze new trails. They had to experiment. The banks were opened. We experimented with the insuring of deposits. The result is that since that time we have had no bank failures, with the exception of a few inconsequential institutions, and the depositors in these banks had their money within 24 hours after the closed notices were posted. What would that insurance of bank deposits have meant to our people when the banks in South Carolina closed their doors prior to March 4, 1933? The question answers itself. I am glad that the people can now go to sleep at night without the fear that in the morning they will learn that the savings of a lifetime have been swept away.

In 1933 we enacted an emergency banking law. It put an end to speculation with the money of depositors. In 1935 we made a permanent revision of the banking laws. At first the bankers complained of this proposal. Now they admit it has been beneficial to the banking institutions of the Nation. We regulated trading upon the stock exchange and the sale of securities to the people of the

Nation. We loaned money to the closed banks of the Nation in order that the banks might pay their depositors without waiting for the final liquidation of the banks. We refinanced the farm mortgages of the Nation, lending money at a new low rate of 3½-percent interest and for long periods of time so as to save the constant cost of refinancing mortgages. We performed the same service for the home owners of the cities.

Few people realize the assistance this gave to local governments. In South Carolina $13,135,000 was loaned upon city homes. In making these loans provision had to be made for the payment of back taxes. Ten percent, or $1,313,000, was in this manner paid to the State, counties, and cities of South Carolina for back taxes. In refinancing the farms of the State $1,305,700 was paid to the State and the counties for back taxes. The payment of these taxes helped local governments to function. It made it possible for schools to run. It restored the credit of the State, its cities and counties, so that they in turn could borrow for their needs.

Through Government assistance the railroads were aided, so that today there is no danger of Government operation. The insurance companies were assisted and today our policies are safe. We can best understand the improvement in conditions by discussing the conditions of our own State.

In South Carolina the receipts from the sale of the principal farm products in 1932 amounted to $46,219,000. In 1935 the receipts amounted to $92,026,000, an increase of almost 100 percent.

In 1932 the contracts for residential construction awarded amounted to $2.033,900. In 1935 the amount of contracts awarded amounted to $5,075,300.

In 1932 the total construction of all kinds in South Carolina amounted to $7,658,800. In 1935 it amounted to $18,493,300.

In 1932 we had on deposit in the banks of South Carolina, National and State, $74,522,000; in 1935 we had on deposit in the banks of South Carolina $120,814,000.

When people file income-tax returns with the United States Government for tax purposes you can rest assured that they do not overstate their incomes. In 1933 the total income tax paid in South Carolina was $1,108,624; in 1935 it was $2,976,370, or an increase of 168 percent.

From 1933 to January 1, 1936, the United States Government paid to the farmers of South Carolina in rental and benefit payments $21,823,284. Of this amount $18,046,506 has been paid on account of cotton, $3,221,464 to tobacco growers, and the balance on account of corn, hogs, and peanuts.

New Deal recovery is not restricted to South Carolina. It is being felt throughout the land, and all citizens, even those who now so severely denounce the Roosevelt administration, have been its beneficiaries. Let me give you a few percentages contrasting conditions under the New Deal and under the Old Deal. Between April 1, 1933, and December 1, 1935, unemployment declined 30 percent. Between March 1, 1933, and January 1, 1936, cotton advanced 92 percent; wheat, 111 percent; corn, 152 percent.

Between January 1, 1933, and January 1, 1936, industrial production advanced 51 percent, steel production advanced 257 percent, auto registrations advanced 326 percent. Between January 1, 1933, and December 1, 1935, the dollar value of exports advanced 33 percent and imports 37 percent.

Mark this: Listed stocks on our security exchanges advanced 134 percent from March 1, 1933, to January 1, 1936. Listed bonds during that period advanced 22 percent.

Finally, for the benefit of our utility friends, who are so worried about the final effect of Santee-Cooper and Buzzards Roost, let me say that from January 1, 1933, to January 1, 1936, power production increased 19 percent.

Now let me cite some of the old-deal declines and the picture is complete. During the last 3 years of the old deal, from 1930 to 1933, cotton declined 61 percent, wheat 59 percent, corn 72 percent, industrial production 44 percent, auto registrations 66 percent, exports 56 percent, imports 52 percent, listed stocks 75 percent, listed bonds 22 percent, and power production 9 percent.

During the last 3 years of the old deal the only advance was the advance of unemployment. On April 1, 1930, there were 3,188,000 unemployed, and on the same day in 1933, 16,000,000 of our people were without work.

To all of this the confirmed critic will say, "You have spent too much money. This is evidenced by the increased debt." We have increased the debt. But the people should know that of the increased debt four and one-half billion dollars have been loaned. Some of the loans are secured by the assets of the banks, and not one dollar of such loans will be lost. As a matter of fact, $18,000,000 were loaned to closed banks in South Carolina, and $16,000,000 have already been repaid. Money has been loaned to cities to build waterworks and sewerage systems. These loans are secured by the bonds of the cities and are certain to be repaid. Advances were made to save the homes in the cities and the farms of the Nation. These loans were based upon values fixed during the depression. The Government will recover its money unless real-estate values decrease below what they were in 1933. If that occurs, balancing a budget will be one of our minor problems. Money has been used in the construction of public buildings throughout the country. The lots upon which these buildings are constructed have been brought at depression values. The life of the average post-office building is 50 years. The lots are located in the business sections of the cities of the country. Fifty years from now practically every one of them will be worth 1,000 times as much as the cost of the lots today.

A prominent critic says that in making these expenditures the administration violated the platform promise to reduce expenditures. In March 1933, when they were crying for help, these people didn't talk about the platform. In November 1934, after this Democratic program had been inaugurated, the people endorsed it by increasing the Democratic majority in the Senate and House.

In 1933 our critics had no suggestion as to what should be done. Now that we are emerging from the depression they denounce the people who saved them. Daily the representatives of big business cry, "Too much government in business." In 1933 they were crying for the Government to go into business—their business. They cry, "Back to the Constitution." What they mean is back to the conditions existing prior to 1933, under which they were able to concentrate the wealth of this country in the hands of the few and have that few dominate the Government of the United States.

But some of our critics say that, admitting that conditions have improved, you should now decrease expenditures. I agree. It is my theory that in times of depression we should engage in public works. If at such a time the Government throws people out of schoolrooms and out of Government offices, they simply increase the number of unemployed and make recovery more difficult. That is the time to begin public works. When we return to normal conditions we should stop public works so as not to compete with individuals for labor and materials; we should decrease expenditures and continue to levy taxes so as to make possible a reduction of the public debt just as we reduced the public debt by $10,000,000,000 between 1920 and 1930.

When unable to sustain any other indictment the critic will invariably speak of expenditures for relief. There can be no doubt it was the most difficult problem of all. However, it should be remembered that originally Congress passed a law which provided that no assistance should be granted to a State unless the Governor of that State certified that neither the State nor its counties and cities nor its charitable organizations could care for their unfortunates. The money was turned over to the Governor of the State. It became State funds. The administrator was appointed upon the recommendation of the Governor. I am satisfied they did the best that human beings could do, but all men realize that you cannot dispense charity without waste. No church committee ever undertook it without having some waste. If you respond to the pleas for help at your own door you are certain to give to some undeserving people. As States, counties, and cities return to normal condition they must assume the burden of relief, because they can best administer it. But during the depression they could not do it; and even though mistakes did occur, I am glad the Government of the United States, with its vast resources and unimpaired credit, did not stand idly by and permit human beings to starve.

The willingness of some persons to disregard human suffering is not new. We are told that long, long ago, on the road to Jericho, there lay a man wounded and suffering. He was in need. That was relief case no. 1. I imagine that the clergyman who passed without heeding his appeals contented himself with the thought that it was a case for the community chest or Salvation Army. Doubtless the Levite who passed and ignored the cry for assistance feared that if he granted relief he would not be able to balance his budget. But, fortunately, there came a good Samaritan, who heeded the cries of the unfortunate man. He did not stop to consider budgets. He took him to an inn, paid for his keep, and then, because his credit was good, pledged that credit for whatever amount was necessary to relieve the suffering of a human being. There comes a time in the life of a government, as in the life of an individual, when the spirit of the Samaritan must influence our actions and we must place the relief of human beings above the necessity for balancing budgets.

The Government has entered another field—that of social security. I think it time that the Government should show an interest in this subject. We have a duty to perform. There is nothing more pathetic than the condition of an aged person without means. It will always be the desire of a son and daughter when it is humanly possible to take care of them, but often it isn't possible. They may have children of their own to support, and the old man or the old woman, realizing the burden they are, go to their graves unhappy. Forty-one States of the Union have provided for old-age assistance. It shows a recognition by the people of this Nation that something must be done to provide for the aged.

Even more pathetic is the condition of the blind. They cannot earn an income. If they have no loved ones able to take care of them, they must take their place at the corner of a street with a bell and try to awaken in the hearts of those who pass by a generous impulse that will result in some small contribution toward securing food. I recall a woman coming to see me last summer to ask whether or not she was entitled to a pension by reason of the service for a few weeks in the Spanish-American War of her husband, who had recently died. She was totally blind. The driver of the automobile was a young woman. I assumed she was a relative. When I asked her to forward me all the correspondence the blind woman had in connection with the matter so that I could see if it was possible to assist her, I learned that the young woman was no relative; that she came from another county, and, learning of the unfortunate condition of this blind woman, had volunteered to bring her to my home. Fortunately, in life there are some people with hearts who will help the unfortunate. But there is no reason why that burden should not be shared, through a system of taxation, by the man whose income makes it possible for him to be of assistance but who is too busy or too selfish to be of assistance.

Whenever we discuss these measures in which the Government has shown an interest in the welfare of the individual, the man who loves to boast that he is "practical" will usually declare that

such proposals emanate only from the "brain trust." That phrase has no terror for me. I have not much fear of a government influenced by brains. I am afraid of a government influenced by people without brains. By the "brain trust" these critics mean that too many men who have at some time in their lives taught school have been called into the service of the Government. They like to speak scornfully of a professor. Then they go home and take their children, whom they love as they love life itself, and send them to school to have their minds and characters molded and influenced by the hated professors and school teachers.

Ladies and gentlemen, you must realize that you can never be compensated in dollars and cents for the service you render. You must teach for the love of teaching. One of the greatest of modern teachers, Horace Mann, has said, "I love to teach as a painter loves to paint, as a musician loves to play, as a singer *loves to sing*, and as a strong man rejoices to run a race." Yours is the inspired undertaking and the heavy burden. The legion of youth must look to you for knowledge, for the formation of character, for the shaping of ideals, and for preparation for life. There is no nobler task. There can be no more satisfying service.

When I think of the experiences you must have had, of the discouragement, the seeming failure of pupils, your patience and devotion, there comes into my mind a story I heard long ago. The school had been dismissed. The tired teacher, just as you have done, perhaps, sat at her desk to rest a while, and looked out upon the empty seats. She bent her head over her desk. The noise and bustle of the day had gone, quiet reigned, and she fell into thought. Suddenly, the room was no longer empty. The chairs and desks were filled with her pupils. But they were not the boys and girls who had just left in the joy of school dismissed. They were pupils of other years; grandmothers, doctors, lawyers, teachers, farmers; successes and failures, gray-haired and with the marks of years upon their faces. As a distant bell sounded, they vanished, leaving behind them the admonition, "Remember, 'tis us you teach!" And you, my friends, must ever remember that it is the future citizen you are teaching.

Possibly the most important address delivered by the President of the United States within the last year was his message to the Congress when it convened in January. Those of you who heard the President over the radio will recall that in closing that address he stated that in what he had done and was trying to do for the welfare of the people of this Nation, he was influenced by thoughts expressed to him years ago by one of his teachers. As he quoted from that educator I could not but think, if that teacher were still alive and could hear the President, he would realize as never before the responsibility of a teacher. He would learn that his thoughts expressed to one of his pupils were influencing the actions of the man who guides the destinies of 130,000,000 people.

Immediately after this speech, newspapermen were inquiring as to the identity of that teacher who had thus impressed himself upon the mind of the President. To the Nation he was unknown. It caused me to think that it was a splendid sentiment which had prompted the people of one State in the Union to erect a memorial to the unknown teacher. I could think of no more worthy cause, of no cause to which I would more willingly contribute, than the erection in this Capital City of a memorial to the unknown teacher. I commend the suggestion to you, and in justification of it recall the poem of Henry van Dyke:

"I sing the praise of the Unknown Teacher. Great generals win campaigns, but it is the Unknown Soldier who wins the war. Famous educators plan new systems of pedagogy, but it is the Unknown Teacher who delivers and guides the young. He lives in obscurity and contends with hardship. For him no trumpets blare, no chariots wait, no golden decorations are decreed. He keeps the watch along the borders of darkness and makes the attack on the trenches of ignorance and folly. Patient in his duty, he strives to conquer the evil powers which are enemies of youth. He awakens sleeping spirits. He quickens the indolent, encourages the eager, and steadies the unstable. He communicates his own joy in learning, and shares with boys and girls the best treasures of his mind. He lights many candles, which in later years will shine back to cheer him. This is his reward. Knowledge may be gained from books; but the love of knowledge is transmitted only by personal contact. No one has deserved better of the Republic than the Unknown Teacher. No one is more worthy to be enrolled in a democratic aristocracy, 'king of himself and servant of mankind.'"

THE UNITED STATES OF AMERICA—ADDRESS BY SENATOR O'MAHONEY

Mr. WAGNER. Mr. President, on March 17 the distinguished Senator from Wyoming [Mr. O'MAHONEY] delivered a very able and interesting address before the Friendly Sons of St. Patrick of the City of New York, his subject being The United States of America, the Only Refuge of the Liberties of Mankind. I ask unanimous consent that this address may be printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE UNITED STATES OF AMERICA, THE ONLY REFUGE OF THE LIBERTIES OF MANKIND

Speaking in the Irish Parliament at Dublin in October 1783, just a few months before the first of the long series of 152 dinners held by this society, Henry Grattan, the great Irish orator, referred to America as the "only hope of Ireland and the only refuge of the liberties of mankind." In this eloquent and apt phrase he epitomized the feelings of all men of Irish blood toward the United States. His words constitute a fitting theme for this occasion, and, responding to the gracious invitation of your officers, I can think of nothing more appropriate than to adopt his language and give you the toast, "The United States of America, the hope of Ireland and the only refuge of the liberties of mankind."

That the hopes of Ireland have not been disappointed in America every person at this board can testify. The life of every member of this society has been evidence of the fact that here the aspirations of Irishmen, crushed and frustrated in their homeland, have flourished like flowers in the friendly sunlight. I am not concerned tonight, however, with the personal achievements in America of any Irishmen or of the descendant of any Irishman. No contribution that men of our race have been able to make to the military, political, or economic history of America can ever be more than a partial recognition of what the free air of America has done for us.

Our emigrant fathers reached these shores, refugees from oppression, with nothing to sustain them but their racial heritage and a deep conviction that they were casting their lot with a Nation in which arbitrary power in whatever guise it might manifest itself would never be permitted to restrain them in the pursuit of happiness. Let us, therefore, think of the past only to the extent to which it may point the path for the future.

IRISH AND AMERICAN IDEALS THE SAME

There is an ancient Gaelic tradition that the Milesians in their wanderings from eastern Europe through Africa and Spain to Ireland were inspired by a prophecy that they would eventually reach a land, a beautiful and glorious land beneath the setting sun, in which happiness and liberty would be forever theirs. Irish bards have envisioned Erin as this isle of dreams, but sometimes I like to think that the prophecy pointed not so much to Ireland as to the United States. For here, of all the places in the world, there seems to be now the only opportunity for the achievement of the ideal which sustained our Gaelic ancestors through all their wanderings and all their struggles against entrenched power.

There is an affinity, a deep and abiding affinity, between Ireland and America, for their ultimate ideals are the same. We are accustomed to hear our people referred to as the "fighting Irish", sometimes as though they fought solely for the pleasure of the row. I will gladly acknowledge that the Irishman enjoys physical contest, but you will search the records of mortal combat in vain for any instance in which a true Irishman was found enlisted in any cause except the cause of freedom. All their long story is the story of a fight for liberty.

It is a circumstance in which every man of Irish blood may well take pride that in Irish Ireland there never was a slave. Oh, there were wars and conquests; men and clans were driven from authority and temporarily subjugated; but there never was a time, from the earliest dawn of Irish history to the present day, when the humblest son of the sod might not attain the greatest dignity in the land.

ECONOMIC FREEDOM IN ANCIENT IRELAND

Sometimes I think we give too much attention to the seven centuries of Irish resistance to English conquest and not enough to the social and economic standards that distinguished the Irish people long before the coming of the Norman, long before even the coming of St. Patrick. For it is in those ancient habits and customs, handed down to us from a time that lies behind the veil of history, that we find the explanation of the Irish love of liberty, the explanation of the Irishman's love for America.

No man of Gaelic ancestry should fail to keep always in mind the unique fact that of all the peoples of western Europe only the Irish have a history, handed down in their own tongue, from a time antedating the Roman conquest of Gaul. That history teaches us that among the Gaelic people the right of use for the living rather than the right of inheritance was the primary rule of property. It was innate antagonism to the feudal system more than anything else that made it impossible for Irishmen to submit to English rule. The ancient Irishmen lived in full recognition of the principle that there can be no political liberty without economic freedom, and every inhabitant from the lowliest to the highest was always economically free. More than that, he always took the fullest advantage of the political liberty which was the inevitable product of his economic freedom.

Land in those days was practically the sole source of livelihood, and no man could hold land in greater amount nor for a longer period than he could use it profitably. No man could hold in unproductiveness and idleness the means of livelihood which another member of the clan needed or could use, and so in ancient Ireland there never was such a thing as want in the midst of plenty. The Irish race instinctively believes that the earth and the fullness thereof belong to the people who can use it rather than to the people who can hold it.

LEADERSHIP COULD ONLY BE WON

There was another custom in this almost-forgotten past which tends to explain the Irish character, its impatience with restraint, its determination to stand upon merit, its refusal to accept subordination. Leadership in Ireland was never purchased. Leadership in Ireland was never imposed upon the people. Irish leadership could only be won and held by ability and worth.

We say sometimes that every Irishman boasts that he is descended from a king. The boast has this foundation, that the head of no Irish clan could bequeath his leadership to his son.

No superior right was ever accorded to the first-born in ancient Ireland. There were families, to be sure, who were called kingworthy, and from among whose members the vacancy was usually filled, but no Irish clan would ever accept a leader in whom it did not repose complete confidence and who was not true to the free traditions of his race. For centuries almost without number, among your ancestors and mine, the individual, whatever may have been his birth, could look forward to the highest honor if only he proved himself worthy and kept the faith of his people.

Perhaps in this circumstance is to be found the Irish love of politics—not politics in the mean and narrow sense of intrigue for personal advantage, but in the broader sense of public service. The Irishman is essentially a politician because through 2,500 years he has been trained to aspire to serve the general welfare, because through 25 centuries he has been accustomed to think in terms of public service, not in terms of the cheap race for the rewards of office. The Irish have seen that sort of politics used to crush them. It was, for example, that sort of sordid politics that the English used to suppress the Irish Parliament. Our people have seen it fail whenever it has been used, and they have seen the men who made themselves its instruments sink into dishonored graves. When all is said, when the whole story has been told, an Irishman would rather have fame and freedom than fortune.

THE CRISIS OF CIVILIZATION

Who can wonder then that the Irish heart beats in unison with the principles of Americanism? Who can doubt where Irish sympathy will repose in any conflict between the ideals of life, liberty, and happiness and the ambitions of those who would subordinate these objectives to economic or political privilege in any form? And who can look upon the world about him without realizing that this generation is facing what is probably the greatest crisis in the history of civilization?

In the Old World the earth trembles beneath the tread of imperial armies that know not the meaning of the word "liberty." In the New World, in this very land, founded by men who believed that it would be, indeed, the "refuge of the liberties of mankind", millions of our fellow citizens, deprived of any active control over the very means of their economic existence, find themselves dependent upon the Government for their very subsistence, and know not how without the Government they may preserve themselves.

In the past, when such conditions arose, there was always an outlet, there was always a new land in the West to which the unfortunate and the dispossessed could go to begin life anew. From before the dawn of history the migrations of the Aryan peoples in search of liberty and happiness have led them across deserts and mountains, across rivers and seas, across continents and oceans, from the eastern shores of the Mediterranean to the Pacific coast. Every step of this long journey has been trodden by the ancestors of the Irish people.

Here in the United States that long western trail has reached its end. There is no spot upon the face of the planet toward which we may now turn our faces, for all the earth is populated. Migration is at an end. Looking backward down the path along which the white race has come, we see only despotism and tyranny in the ascendant. Here, under the Stars and Stripes, we find, indeed, the last "refuge of the liberties of mankind." Here, indeed, under the Stars and Stripes, if human liberty is finally to triumph anywhere beneath the shining sun, it must be perpetuated.

THE CHALLENGE TO THE GAEL

To the achievement of this great goal the sons of St. Patrick must dedicate themselves. In this generation and in this land our age-old principles of political liberty and economic freedom must meet the final challenge of arbitrary power. It seems altogether appropriate, therefore, Mr. Toastmaster, that on this occasion when we are considering the contribution which American Irishmen may make to the United States of America, we should remember, first of all, what our people have been before us. No man is greater than his race. The race is greater than any man. We who live in the twentieth century represent not ourselves but all of the men and women down through the centuries who have shaped our nature.

The American citizen of Irish ancestry will do himself, his people, and their age-old principles most justice when he puts himself most in harmony with the historic past and lets his race find expression in him. When he does that he may be excelled in ability, he may be excelled in strength, he may be excelled in all the qualities of mind and body that achieve power and accumulate wealth, but he will never be excelled in liberality, in virtue, or in loyalty, he will never be excelled in the qualities of soul that build character, the qualities that alone make and preserve freedom.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2603) to provide for the adjustment and settlement of certain claims arising out of the activities of the Federal Bureau of Investigation, and it was signed by the President pro tempore.

EDWIN R. HOLMES

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Edwin R. Holmes, of Mississippi, to be United States circuit judge, fifth circuit?

Mr. BURKE. Mr. President, the Committee on the Judiciary has unanimously reported in favor of the confirmation of the nomination of Judge Edwin R. Holmes to be United States circuit judge, fifth circuit. The nomination is now before the Senate; and, if there is no objection to its confirmation, I am ready that confirmation be had.

Mr. BILBO. Mr. President, for almost 14 months I have had the honor and distinction of representing the sovereign State of Mississippi as one of its ambassadors in this great deliberative body.

Before coming to the Senate in January 1935 I had heard and read much about the splendid rules of courtesy and ethics that obtain in this great body as between the Members making up the personnel of the Senate; and since I have been here I have striven religiously in every detail to observe those rules and regulations in order that I might be the recipient of the good will, the respect, and the confidence of the Members of this body.

So anxious have I been to observe every rule that has existed for almost a century that I have silently kept my seat out of deference to those whose seniority I respected. I was anxious to enjoy the good will and fellowship that come to those who are decorous, and those who are respectful, and those who are obedient to laws and regulations not written, but which, because of their age and observance, are almost the mandates of this distinguished assemblage. I regret exceedingly that on this occasion it becomes necessary to speak, and possibly to take a position, in opposition to one of those settled rules of deference in differing with my distinguished colleague, the senior Senator from Mississippi [Mr. HARRISON].

Knowing that this matter would come before this distinguished body, on the 18th of March I prepared a letter which I mailed to all Senators. For fear some Member of the Senate failed to read the letter, I wish to impose upon the Senate long enough briefly to read it:

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY.

MY DEAR SENATOR: Before announcing the real purpose of this letter, I want to make a few personal observations for your consideration, even at the risk of being charged with transgression of some one of the long-established rules of senatorial ethics.

I have been informed that the older and more experienced Members of the Senate, sometimes irrespective of party lines, are quick to administer punishment to the transgressor of any one of these time-honored rules of conduct. These guardians and defenders of the common law of senatorial propriety, by virtue of their seniority, necessarily are gathered and grouped in frequent discussions for the appraisement and valuation of any newly admitted Members of the Senate. I feel that I have not escaped their scrutiny, their careful estimate of all the essential elements in the make-up of my character, and that such appraisement and valuation has been based upon the testimony of those from among their number thought to be best qualified to know.

From this circumstance it so happens that any new Member in this body is handicapped by the natural tendency to enter judgment upon any cause or measure he may champion, commensurate entirely upon the predetermined appraisement of the personal attributes of the newcomer himself and without due or proper regard to the merits of the cause or measure espoused.

A new Senator's advancement in the esteem and his placement in the confidence of the membership of this body are not infrequently fixed in the first year of his tenure of office by the opinions formed and adhered to by this closed and guarded circle of privileged seniority. Into this charmed circle the faintest whisper of suspicion about a new Member can go round and round and finally come out a roaring typhoon of defamation. Into this magic circle a single drop of poison about the life and character of a new Member may be dropped and it will spread and expand into an effervescent vapor, permeating every nook and cranny of the Senate Chambers until the minds of its constituted occupants become impregnated with this lethal gas.

Since I came to the Senate, a little over a year ago, as a time-tried and panic-tested Jeffersonian, Jacksonian, and Rooseveltian Democrat, hailing from a State that is 99 percent Democratic, and having previously heard and read of the regularly observed rules of senatorial ethics that should be adhered to by a freshman Senator if he desired enjoyment of those fine amenities abundantly abounding in this great law-making body, I have striven to observe religiously every such rule and have also preferred to keep the long-practiced custom of remaining deathly silent for the period of a whole year. I naturally indulge the hope that through my efforts to observe with rigid exactness the well-established precedents of this body with respect to the days of my apprenticeship I have earned justly the unreserved approval and commendations of each and every Member of this Senate so much so that in my opposition to the confirmation of Judge Holmes as a member of the Circuit Court of Appeals for the Fifth Circuit, and what I shall have to say in support of that opposition will be

received and weighed by the membership of this body solely upon the merits of my contention, the proper appraisal of all the testimony in the hearing, the reasonableness and convincing effect of the arguments I shall present, and the earnestness and truthfulness of the plea that I shall make.

If, perchance, there has been quietly noised around, within the inner circles to which I have just referred, whispering subtleties or softly pedaled rumors intended to prejudice the minds of distinguished gentlemen concerning the man Bilbo and thereby influence determinations upon the confirmation of Judge Holmes purely on the basis of the personal equation as applied to myself and my distinguished colleague, Senator HARRISON, who has been a Member of this body for 18 years, I most respectfully urge that you brush aside serious consideration of these extraneous matters and refuse to allow them to divert your minds from the real issue involved. A question of this character, involving the honor and integrity of the judiciary of our country, cannot be rightfully decided by a determination based upon an issue of personalities.

A studied effort has been made to leave the impression that there is nothing in my opposition to the nominee in this case except personal spite and personal hatred toward Judge Holmes, and that the real point at issue is that to defeat the confirmation of Judge Holmes would in some adverse way affect the political fortunes of some of the nominee's sponsors. Such considerations should not come within the scope of these discussions but since it has been freely and frequently referred to I wish to say that, insofar as I myself am concerned, I know that the great majority of the people of Mississippi are with me in this fight.

The serious charges against Judge Holmes that I have sought to substantiate and have been denied the opportunity to do, are lightly brushed aside with the statement that Judge Holmes must be a great judge because of a few recommendations filed by a few of the 1,400 lawyers in Mississippi. This nominee's perfidy, favoritism, partiality, ignorance, or prostitution of the duties of his office are such that you can't expect the lawyers who practice in his courts to come here and testify against him when they know him, when they know his temperament, and when they know that they will have to contend with him for life. I have had too much consideration for the members of the bar to ask them to jeopardize their law practice to come here and testify about things that they have told me in privacy. The fact that the bar association had an annual meeting since this confirmation has been before the Senate and Judge Holmes' friends dared not introduce a resolution of endorsement ought to be notice enough to any Senator that there is "something rotten in Denmark."

Now, coming to the real purpose of this message, I wish to say that I am addressing to you my last plea before I rise on the Senate floor next Thursday, March 19, at noon to oppose the confirmation of Judge Edwin R. Holmes, who has been nominated to succeed the late Judge Nathan P. Bryan as judge of the Circuit Court of Appeals for the Fifth Circuit.

I have heretofore sent you a copy of the printed hearings on his confirmation before the subcommittee of the Senate Judiciary Committee and also a copy of my plea following said hearings.

I now desire to give you briefly a few facts with respect to the incompleteness of the committee hearing that I feel confident will awaken in you a special and renewed interest in this matter and will stimulate the urge upon your part to join with me in a common effort to have the question of Judge Holmes' confirmation recommitted to the Judiciary Committee for further hearings and determinations by the taking of additional testimony.

The Subcommittee of the Judiciary, namely, Senators BURKE, PITTMAN, and AUSTIN, investigating the qualifications of Judge Holmes, met on the following days, to wit, January 24 and 25, inclusive, February 22, and March 5 and 6, making 5 days with sessions of from 1 to 3 hours for each day, an average of 2 hours.

In my honest and unaided efforts as a United States Senator, conscious of what my duty was to the people of my State and the district to be served by Judge Holmes, if granted the promotion he seeks, to prove, beyond any question of doubt, the unfitness, incompetency, and lack of fairness and impartiality of this nominee as a member of the circuit court of appeals, I have been permitted to have brought before the investigating committee only four witnesses—

I want my colleagues to note this:

I have been permitted to have brought before the investigating committee only four witnesses, while Judge Holmes and his able voluntary counsel, Hon. Gerald FitzGerald, have brought into this hearing 23 witnesses and affiants, with the result that fully 75 percent of the testimony submitted in this hearing was by the witnesses and affiants in behalf of Judge Holmes, and this, too, notwithstanding the fact that I have repeatedly, both by letter and by word of mouth, earnestly urged and pleaded in vain to be given the opportunity to produce witnesses that would offer testimony in substantiation of certain charges I had made against Judge Holmes affecting his worthiness, competency, and qualifications, and which charges the committee thought serious enough to permit Judge Holmes and his witnesses to attempt to answer at meetings specially called for that purpose and concerning which charges they made palpably feeble and entirely unsatisfactory explanations.

If the things I charge against Judge Holmes were so serious that Judge Holmes and his court clerk were brought to Washington, a thousand miles, to try to explain them, then most certainly they were serious enough to have the Senate find out whether or not the charges I made were true. I take the position that it is not so much the province of three Senators to pass upon the materiality of these questions affecting the fitness and qualifications and worthiness of this man for promotion, but in all fairness to any Member of the Senate, whether it is BILBO or not, he ought to be given opportunity to present the facts to the Senate and let Senators pass upon them.

The letter continues:

I have been compelled to make out my case against Judge Holmes largely from the testimony of his witnesses and affiants. I have been fortunate, however, in being able to take the testimony of his friends, as well as the judge himself, and confirm with decisive effect many of the charges I have brought against him, charges I have not been privileged to prove by witnesses of my own choosing.

I am prepared to show many acts of judicial misconduct in the nature of sentences imposed without authority of law, aside from the illegal sentence that he imposed upon me for an alleged contempt of his court, because of refusing to obey a subpena that was issued contrary to law and therefore invalid and without potency. I am able to prove by the records of his court that he has sent hundreds of my constituents to the Federal penitentiary in open and manifest violation of the Federal statutes.

Mr. President, it is a rather serious charge that a judge on the Federal bench would do such a thing.

His record of judicial incompetency and abuse of the powers vested in him is unparalleled in the courts of this country, and in my judgment finds no equal except in the records made by Lord Chancellor Jeffreys in England and Lord Braxfield, his counterpart, "bloodthirsty wearers of the ermine", whose fieldish delight was in the imposition of extreme sentences and whose cruelty and political profligacy knew no bounds.

If these facts are permitted to be shown, as I am prepared to do, they will present a record of such judicial stupidity, of such crass ignorance of the law, or of such a willful and premeditated abuse of his powers as will astound and amaze the members of this great deliberative body, the Senate of the United States.

I cannot believe that any Senator wants to be a party to camouflaging such a record of judicial incompetency and unworthiness. A thorough and searching investigation of his official acts has convinced me beyond every reasonable doubt that my contention is correct with respect to the unfitness of this judge who, through a political accident and false representation to the President and the Attorney General of my concurrence in his nomination, is now unfortunately placed in line to be promoted to a higher status in the judiciary of this country.

I am enclosing herewith a letter in printed form that I addressed to the chairman of the Judiciary Committee on March 9, 1936, and I hope you will do me the kindness to read it.

I am asking in this, my final plea to you before appearing upon the floor of the Senate to oppose the confirmation of Judge Holmes, only to have the opportunity to prove the charges I have made, an opportunity thus far denied me, and which, I contend with all the earnestness of my soul, should, by every rule of right and reason, be fully and freely granted.

In making this earnest appeal to you for a recommitment of this matter I do not mean to imply, or to have you infer, that I have in any particular failed to produce already conclusive proof of the incompetency and unfitness of this judge to be advanced in the judiciary. I am seeking this opportunity only to make all the more certain the correctness of my contention, to make all the more manifest the justice, righteousness, and rightfulness of every charge I have submitted, to the end that each Member of the Senate, as well as the whole world, can stand up and say, "Here is a man who is unworthy and undeserving of promotion in the Federal judiciary."

Respectfully submitted.

THEO. G. BILBO,
United States Senator.

Mr. President, I ask to have printed in the RECORD as a part of my remarks the letter which accompanied the communication I have just finished reading.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 9, 1936.

Senator HENRY ASHURST,
Chairman of the Senate Judiciary Committee.

DEAR SENATOR: While this letter is directed to the chairman of the committee, yet it is personal to each and every member of the committee, and for that reason I am mailing a copy to each member of the committee.

The honorable subcommittee, to whom has been delegated the duty of thoroughly investigating this important matter, has met on 5 separate days and examined nine witnesses, including the nominee, in defense of Judge Holmes, and has permitted me to bring only four witnesses in my attempt to show the partiality, favoritism (political and personal), inefficiency, indifference, indolence, recklessness, and general unfitness of the nominee, Judge Holmes.

As I have stated to this committee before in my former plea after filing many vital and serious charges against Judge Holmes and his record, the proof of which would unquestionably disqualify him for promotion, instead of being permitted to produce witnesses in possession of first-hand information and documentary records, Judge Holmes, the nominee, was permitted to come before the committee for the purpose of denying and vainly trying to justify his many acts of judicial misconduct.

The clerk of his court, Hon. B. L. Todd, Jr., whom I requested to be brought before the committee by the issuance of a subpena duces tecum to bring certain records that would tend to establish the truth about Judge Holmes' judicial abuses and misconduct, has been brought before the committee from Jackson, Miss., by the issuance of a subpena duces tecum to bring records before the committee which I had secured and filed before the committee more than 10 days ago, the same identical records—records certified to by this same clerk, Hon. B. L. Todd, Jr. Just why the subcommittee would want to bring this clerk of Judge Holmes' court a thousand miles to bring records already in possession of the committee is to my mind inexplicable. The only purpose that Mr. Todd served was to furnish cumulative evidence in behalf of Judge Holmes—to support Judge Holmes in his vain attempt to justify the innumerable illegal sentences that he had imposed upon citizens of Mississippi charged with violations in his court.

Since the last meeting of your committee, the subcommittee has had one other witness besides Mr. Todd before them in the person of Col. R. G. Wooten, and I direct the committee's attention especially to his testimony, as he was campaign manager for Judge Wilson and was present when Judge Holmes took a part in the senatorial race between Wilson and Stephens.

In this connection, I want to direct your attention also to the following affidavit which I received Sunday morning. This matter was referred to in Colonel Wooten's testimony:

STATE OF MISSISSIPPI,
County of Jones, Second District:

Personally appeared before me the undersigned authority in and for said district, county, and State, W. H. Hodge, who on being duly sworn on oath says that he was in Jackson, Miss., in the year 1923, a few days after the second primary, and was in the lobby of the post office at Jackson, Miss., in the afternoon along about 5 o'clock, when Judge Holmes and one or two other men were in the said lobby, just inside the door, and I heard the following conversation: One of the other men remarked, "We have beaten BILBO again." Judge Holmes remarked, "I think I have put him out of Mississippi politics when I put him in jail." The second primary I refer to is the primary in 1923 in which Mr. H. L. Whitfield defeated Senator BILBO for Governor of Mississippi in 1923.

W. H. HODGE.

Sworn and subscribed to before me this the 6th day of March 1936.

[SEAL] CHAS. T. WALTERS, *Chancery Clerk.*
By CLARA FREEMAN, *D. C.*

Not one witness has been subpenaed to give me an opportunity to establish the true facts concerning the many charges that I have made against Judge Holmes. I am one of the 96 Senators that make up the Senate personnel. I am an ambassador selected by the people of the sovereign State of Mississippi, an integral part of this Union. I am convinced beyond every shadow of a doubt that the charges that I have made against the nominee in this instance are true and can be thoroughly substantiated unless I am denied this opportunity.

If these charges are true, of course, everyone admits that they would render Judge Holmes unworthy of promotion, and simple justice and good government demand that the truth of these facts be revealed to every Member of the United States Senate. If they are untrue, neither time nor expense should be spared in exonerating the nominee. The Senate owes it to itself to see that this is done, not only in justice to themselves but in justice to the good name of the Federal judiciary.

On Friday afternoon, March 6, 1936, after the subcommittee had recessed without giving me any assurance that I would be permitted to have witnesses brought to substantiate the facts charged against Judge Holmes, since I had previously charged that Judge Holmes had sent hundreds of my constituents to the penitentiary upon indictments and facts that justified only a conviction and sentence as misdemeanors, I sent the following telegram to Hon. J. D. Stewart, clerk of the United States District Court for the Northern District of Georgia, Atlanta, Ga.:

WASHINGTON, D. C., *March 6, 1936.*

CLERK OF THE UNITED STATES DISTRICT COURT,
Atlanta, Ga.:

Please wire me immediately the names of prisoners and the numbers of the cases of every petition filed in the court of which you are clerk for writs of habeas corpus, where prisoners were sent to the penitentiary from the United States District Court for the Southern District of Mississippi, with the exception of Meridian, since 1926, and also indicate which cases the court ordered the prisoners sent back to the southern district for a resentence and those in which the court at Atlanta discharged the prisoners. I want this record covering the period from 1918 to date. Please give me this information by 9 o'clock Monday morning. Thanks.

THEO. G. BILBO,
United States Senator.

Friday night, I received the following telegram in reply:

ATLANTA, GA., *March 6, 1936.*

"Hon. THEO. G. BILBO,
"United States Senator:

"Re tel. even date. Records of this court disclose following-ing-named and numbered cases returned to southern district of Mississippi for resentence: J. Will Culpepper, 337; Everett S. Depew, 448; H. T. Holland, 574; Joe Ainsworth, 637. Following discharged: Edgar Neyland, 405; Louis A. Redmond, 478; William Earl Pace, 535; Arthur Austin, 536; Collin Ladner, 539; Melvin J. Simmons, 541; Johnnie Wells, 599; Steve Taylor, 607; Leroy Talbert, 1,042. Pace case affirmed on appeal.

"J. D. STEWARD,
"Clerk, United States District Court,
"Northern District of Georgia."

This information from the clerk of the district court at Atlanta, where Judge Holmes has sent hundreds of my constituents illegally, tends to thoroughly substantiate the truth of my charges against him for his reckless, indifferent, and illegal administration of justice in his court.

With another case, to which I have already directed your attention, this record shows that out of 14 sentences imposed, Judge Underwood, when given an opportunity through a writ of habeas corpus, properly and promptly returned four to Judge Holmes' court for the imposition of a legal sentence, and dismissed outright the other 10.

These cases do not take into consideration the 75 or 100 cases, or maybe 200, of poor prisoners without attorneys who pleaded guilty and threw themselves upon the mercy of the court—guilty of only misdemeanors—and were sent to the penitentiary and served their illegal sentences at hard labor never knowing of the great wrong committed against them or that they could escape the outrages of this judge by filing a writ of habeas corpus in the Atlanta district.

I cannot believe that any Senator would want to withhold the exposé of this miserable and outrageous misrule and tyranny practiced by a member of the judiciary upon uninformed poor and helpless citizens of this country.

One of the most serious, vital, and material matters that the Senate should know about the judicial misconduct of the nominee is the reckless, indifferent or, shall I say, fraudulent dissipation of the assets of the two banks at Gulfport involving the savings and fortunes of over 6,000 depositors. Mr. Lyons, of the Comptroller's office, was brought before the committee evidently for the purpose of trying to defend, justify, and exonerate Judge Holmes' conduct in judicially approving the many fraudulent transactions in the liquidation of the Gulfport banks. But Mr. Lyons, whether he intended it or not, condemns Judge Holmes and fastens upon him the positive and inescapable obligation that he owed to the depositors of the Gulfport banks.

The law makes it the duty of the judge to approve settlements of the receiver in such bank liquidations. Here are the exact words of Mr. Lyons:

"The ordinary routine in that connection is that the receiver, in case of a sale of assets, works up the best sale he can locate, presents all the facts to the Comptroller's office with his recommendation for or against the proposition, and on the strength of that information we approve or disapprove the sale, according to the merits as we see them and the information before us. That goes up to the court. In the case of real estate the court may direct a public hearing on the petition. If it is a matter of any consequence, such as a bank building, which always stands out like a sore thumb in a community where everybody is interested in it, that is generally done. If it is the sale of a vacant lot worth $50 or $100, the court would ordinarily accept the recommendation of the receiver that that was the best price he could obtain."

In the Gulfport liquidation case, Judge Holmes either failed or refused to do the very thing that Mr. Lyons said he should do. It is one of the "sore-thumb" cases in which I have charged Judge Holmes with reckless, willful, and, I might say, fraudulent acts at Gulfport. If I am permitted, I will be able to show that the Bank of Gulfport owned a corner lot, upon which was erected a beautiful brick and stone two-story bank and office building, thoroughly equipped and furnished. I am informed that, while the assessment of real estate in Mississippi represents from 25 to 50 percent of its value, this piece of property was assessed at $35,000. The property was well known to Judge Holmes personally. He has seen the property. He knows of its prominent location in the heart of the business section of Gulfport. He knows how handsomely it was equipped. Yet he approved the sale of all this property to a socially and politically prominent official at Gulfport for the small and ridiculous sum of $13,500. Why, the fixtures and furniture in this building were worth more than this. This settlement and sale were only in line with many other settlements approved by Judge Holmes—settlements where he knew that he was releasing from just and legal obligations to the depositors men and women of great wealth who were in position to pay every dollar that they owed these helpless and defenseless depositors.

In the light of Mr. Lyons' testimony, representing the Comptroller's office, why should any member of this committee want to keep from the Members of this Senate, who must pass upon this nominee's fitness, this sordid story of fraudulent liquidation to the great harm of those 6,000 outraged depositors of these banks.

It is true, in my honest judgment, that I have developed enough facts, using Judge Holmes' own witness, to cause each and every Senator to vote against the confirmation of Judge Holmes, yet I

contend that the Senate is entitled to know the truth about all the judicial misconduct of this nominee.

I have shown conclusively that the subpena for me to attend the Oxford Birkhead-Russell case was illegal; that the attachment was illegal and unlawful; that I did not plead guilty; that the sentence imposed by the court was prompted by political prejudice and was itself in violation of the law; and that the judge's political prejudice was further evidenced by the excessive bail.

This case alone should, in my mind, cause every Senator to vote against the promotion of this nominee, for I am sure that no Senator would vote to promote a judge who had illegally subpenaed him, illegally attached him, and illegally sentenced him to jail. And if you would not so vote if you yourself were the victim of such illegal, unlawful, tyrannical, and irreparable treatment, then how could you justify your own conscience by voting to promote a judge who had thus treated one of your colleagues?

Why all this haste? On Thursday I was told that I must attend the hearing of the subcommittee to hear Mr. Todd at a time when I was serving on a committee and passing upon an important piece of legislation, because Mr. Todd is clerk of the court at Biloxi. His court is in session, and his testimony must be taken, so he could rush on back to his post. This in the face of the fact that Mr. Todd spent the next day in the city of Washington.

Why has the unusual request been made of me as a Member of the Senate that I not make any new charges against Judge Holmes? Am I to understand by this that if information should come into my possession in a hearing of this kind that the nominee was a dope fiend, habitual gambler, or drunkard, or guilty of any other misconduct that I would not be permitted to bring it to the attention of the committee or the Senate at any time? All agree that this Congress is not going to adjourn before the 1st of May. This is not a case that requires speedy action for the public good. The public interest is not suffering because there is and has been a vacancy on the court of appeals for the fifth circuit since August 8, 1935. I assure the committee that I am not trying to prevent the final settlement of this case before the adjournment of Congress. I have explained repeatedly that when I came to Washington in January it never crossed my mind that there would be any attempt to force the confirmation of this judge over my personal objection. I have only brought to the committee such facts about the nominee's record as in my judgment were vital and material and tend to show his absolute unfitness for this promotion.

I urge that every consideration, except the honor and integrity of the judiciary and cause of good government, fair, just, and righteous administration of our laws by our judiciary be laid aside and that all the facts pertinent to this investigation be given to every Member of the Senate before he or she shall be called upon to decide this important question.

Seventy-five percent of the record of this case has been devoted to the defense and exoneration of Judge Holmes. Now give me an opportunity to prove and establish, with competent testimony, the charges that I have alleged in good faith, and then we will be ready to vote, and not before.

Respectfully submitted.

THEO. G. BILBO,
United States Senator.

Mr. BILBO. Mr. President, in the performance of what I conceive to be my duty on this occasion, I feel that I am speaking in defense of the judiciary of this Republic, and I assure my colleagues that if I shall be afforded an opportunity to substantiate the charges I have made, and let the Members of this body, the judges in this matter, pass upon the questions raised, my contentions will be thoroughly established.

Just a few words now in reference to this particular appointment to fill the vacancy in the fifth circuit. It is my understanding, and it is my contention, that while six States and the Canal Zone are included in the fifth circuit, under all the rules of the game the appointment of a judge to fill the vacancy caused by the passing away of the late Judge Nathan P. Bryan belonged to the State of Mississippi. It is a Mississippi appointment, because since the establishment of the circuits, 25 or 30 years ago, all the other States within the fifth circuit have had the honor and pleasure of furnishing judges for the circuit court of appeals. Mississippi has never had such an opportunity, and it was generally conceded, when Judge Bryan passed away, that since Mississippi had throughout the years been denied the opportunity, the Senators from all the other States involved would stand aside and accord to Mississippi the right to place a man upon that bench.

So I consider this primarily a Mississippi appointment, in which I am interested.

While there is a sharp disagreement at this time concerning the appointment and the confirmation of the nomination submitted by the President to the Senate, I assure Senators that my distinguished colleague the senior Senator from Mississippi [Mr. HARRISON] and I would have no trouble in agreeing upon someone among the many splendid lawyers and jurists of Mississippi to fill this vacancy.

I know it has been a rule of the Senate, honored for more than a hundred years, to refuse to confirm, out of courtesy and deference which have always been accorded to a Member of this body, with very few exceptions in its history, when a Senator from a State affected has personal objection to one whose nomination has been presented to the Senate for confirmation, if he is willing to stand on the floor of the Senate and say to the world that the nominee is personally obnoxious to him. That rule has been so stoutly adhered to that it has not been thought necessary to require a Senator to stand on the floor and give the reasons why the nominee is personally obnoxious to him. All he has had to do was to intimate or say to his colleagues, "This man is personally obnoxious to me", and out of deference the Senate would reject the nomination.

Oh, but someone may say, and it may be contended that this rule, which applies to objections to confirmation because a nominee is personally obnoxious, obtains only where the functions of the office of the nominee are to be carried on within the State, where they are, so to speak, "intrastate." There may be extreme cases where such a contention may be successfully made, but my investigation shows that the Senate has not often observed the rule that it must be confined to "intrastate" appointments.

While looking up the authorities the other day I found a case involving the senior Senator from California [Mr. JOHNSON] back in 1912. The President sent to the Senate the nomination of a man from the State of Oregon, not from the Senator's home State, but from a sister State—a man appointed to the circuit court of appeals—a case similar to the present one, and the Senator from California objected to him because the man was personally obnoxious to him. He was personally obnoxious to the Senator from California, because the man who was then the nominee for judge had repudiated a preelection promise to vote for the Senator from California as the candidate for President of the United States in a national convention, and because the candidate for judge had failed to vote for the Senator from California in the National Republican Convention the Senator from California said:

> This man is personally obnoxious to me, because he has repudiated instructions from the State of Oregon.

And the Senate was gracious enough and deferential enough to a Member of this body, the Senator from California, to refuse to confirm that nomination.

Have I any grounds upon which to predicate my statement that Judge Holmes is personally obnoxious to me? Judge Holmes, as many Senators know, is the judge who in 1922, on the 16th day of April, incarcerated me in the Oxford Federal jail, imposing upon me a fine of $100 and costs and a jail sentence of 30 days, which sentence was later modified to 10 days. The judge imposed that sentence without authority of law; he did it in open violation of the law, and he was so anxious to destroy the man BILBO, who had been Governor and was then ex-Governor of the State, and who was then a candidate for Governor, that in his mad desire to destroy his political enemy he even forgot to read the statutes of the United States and imposed both a jail sentence and a money fine in open and direct violation of the law of this country. I think I am safe in saying that this incompetent judge, this negligent, reckless judge, this political judge, never knew what the law was in imposing a penalty for contempt of his court until he sat yonder in the committee room and I called his attention to his violation of the statute. He had prepared a written statement for presentation to the committee and said in that written statement that he modified the sentence and corrected it, not because he found he had violated the law in imposing the sentence, but he did it because of the spirit in which I accepted the punishment imposed.

Mr. President, I have always tried to be a philosopher and take things as they come. I decide on a course, as to whether it is right, and I follow it blindly. I tried under the exi-

gencies of the situation to make the best of it that I could. I was a candidate for Governor, and as a result of this incarceration I was defeated in that campaign.

So, Mr. President, my opposition to Judge Holmes is not due to a case of spite; it is not due to a case of hatred. But I am appealing to Senators to look at this case as a matter of justice, as a matter of righteousness, as a matter of fair play, as a matter of courtesy, as a matter of deference, showing to me the same deference that Senators would want to be shown them in similar circumstances. It is a fight to place upon the Federal judiciary in the appellate court of this country a man who is big enough, a man who is wise enough, a man who is careful enough so he would not send an ex-Governor and a candidate for Governor to the Federal jail without looking at the statute to see what kind of a sentence he could impose if he were justified in imposing any sentence.

The judge said he did not take time to read the statute. He admitted he had violated the law. Poor weakling, he did not know it until he arrived in Washington. If Senators will let me take him back to the committee for a couple of weeks I will teach him some more law.

If I had committed any wrong, if I had been guilty of violating the law, if I were conscious of having violated the law, I would take my hat off to Judge Holmes and be the last to complain. But I stand here today conscious of the fact that I did not violate any law, and I propose to prove to Senators, if they will be patient with me, that I did not violate any law, and that it was the judge's vindictiveness or his stupidity which led him to put me in jail; and it was not because I had violated a law. If he had been a proper kind of judge or if he had a judicial mind he would have known that I had not violated any law.

I say—and I do not mean to be too personal—that there is not a Senator in this Chamber, there is not a Senator whose name is upon the Senate roster, who, if he himself had been the victim, would be willing to say to the world and say to his people back home, "I would be willing to vote to promote in the judiciary a judge who had acted in a case like this for political reasons, a judge who, in violation of the law or by reason of lack of understanding of the law, had imposed an unlawful punishment." If Senators would not be willing to promote a man who had thus caused them an irreparable injury and placed a stigma and stain upon their names which time cannot remove, then would they not accord a favorable hearing to my plea? I am asking them only to apply the Golden Rule—"Do unto others as you would have others do unto you."

I see several ex-Governors in this body—to the number of about 14. Senators who have been Governors of their States enjoyed the distinction and honor which came to them from the fact that they had been selected from all of the people of their States to be the heads of Commonwealths of this Republic. They were proud of that honor. Their families were proud of that honor, of the great distinction which had been conferred upon them to be the Governors of their States. Suppose, my dear Governor, after you had enjoyed this distinction among your fellows and after your family had enjoyed that social position as the result of the honor that had been heaped upon you, and you had sought that position again, some judge had taken advantage of his power—not his right—some judge, in violation of the law, had cast you in jail and branded you as a jailbird for the rest of your life, would you be willing to vote to promote such a man in the judiciary of this great country of ours?

Oh, yes, I know; great men have gone to jail. Both profane and sacred history contain the names of great men who have gone to jail, but when John Bunyan, and the Apostle Paul, and Jefferson Davis, and Martin Luther, and other great men of history were sent to jail they were sent to jail because they were the exponents of a great cause affecting the welfare of millions. They were sent to jail, but their fame and glory was not dimmed, because they were sufferers for a great cause.

But in this case, where puny, petty political power is exercised in putting a man in jail for an alleged minor violation, it is an entirely different proposition. It was a different issue. Since this irreparable injury was done to me, to my name, and to my family, the antagonistic newspapers of the country, the magazines of the Nation who were opposed to me and opposed to the faction with which I am associated, never lost an opportunity to refer to the man BILBO as a jailbird. I remember during my campaign since that unpleasant experience, placards a yard long and a yard wide were scattered all over the State carrying the picture of a jailhouse with a large open window, with bars streaked across it, with the man BILBO's face behind the bars. That is the kind of propaganda which was used as a result of this judge's violation of the law and this judge's vindictiveness and desire to destroy a man who stood at the head of the political faction to which he was opposed.

Oh, yes; I have been exonerated by my home people. I was defeated in 1923 for Governor immediately after this incarceration, but 4 years afterward I was elected Governor of my State. I moved my family into the Governor's mansion. I had a young son. He entered the city schools of Jackson, the capital of my State. I shall never forget, time after time, as this boy, proud and ambitious, proud that he was the son of the Governor, walking home in the afternoon and entering the door of the mansion with slow and heavy steps, crying as though his heart would break because on the school grounds, on the slightest provocation, some boy would hurl at him the statement, "Your daddy is nothing but a jailbird."

Yes; I was elected to the United States Senate, and it has been whispered around, at least one Senator had the audacity to say that I sought the sentence in jail for political purposes. I resent such a suggestion. Any man who would seek to have this kind of a stigma placed on his name and his family's name—a stigma that cannot be erased—for the sake of any office is not worthy the name of man. I did not need a sentence in jail to win my spurs in the political campaigns of my native State, because before this judge had a chance to wreak his hatred on me I had been State senator, Lieutenant Governor, and Governor. What political success I have attained has not been because of this incident. I have won that success in spite of it, and while locally I have enjoyed the exoneration of my own people, yet, as I enter a broader and wider field of service for my country, I seek at the hands of the Senate a broader and wider exoneration. If this man who was the guilty party and who placed this stigma upon my name for life is elevated to the circuit bench while I am a Member of this body the Senate knows what effect it will have.

Judge Bryan died on the 8th day of August 1935. I was in Mississippi participating in the campaign for Governor at the time of his death. I returned to Washington the same week Judge Bryan passed away. I felt called upon to go back to my native State and engage in the campaign then being conducted for Governor, to take the stump in behalf of my friend, the present Governor of Mississippi, Governor White. When I reached Washington after the death of Judge Bryan I read in the newspapers that my distinguished colleague had already presented the name of Judge Holmes to Attorney General Cummings and to the President of the United States for appointment as Judge Bryan's successor. My colleague did that without conferring with me, when, as I have said, he knew it was conceded by all that this appointment belonged to Mississippi and that I, as his colleague, with the equal power, was entitled to recognition. In explanation of the fact that he took this step, important to the people of Mississippi, important to me, without even so much as speaking to me about it, without conferring with me about it, he said, "BILBO was in Mississippi; naturally if he had been in Washington I would have said something to him about it." With all due deference to my distinguished colleague, if he had wanted to consult me, and wanted to confer with me about this appointment that belonged to Mississippi, he could have reached me in 30 minutes over the telephone or by a telegram, because he knew where I was. The first time I had any intimation that the telegraphic and telephonic systems of the country were

paralyzed was on the 8th and 9th of August 1935. There is only one of two conclusions to be reached; either my distinguished colleague knew of my opposition to Judge Holmes and wanted to get ahead of me before I had a chance to oppose his nomination, or he had no concern about my wishes in the matter and did not desire to confer with me about it. Of course, that is a matter within his own conscience. I do not know that the Senate is interested in that feature of it, but I feel that the Members of this body ought to know the facts in the case.

When I returned to Washington and was making preparations to return to Mississippi on the 16th day of August—please keep these dates in mind—on Friday afternoon I called my distinguished colleague out yonder on the porch on the north side of this Chamber. I then and there asked him, "What about the appointment of Judge Bryan's successor?" I knew that he had already recommended Judge Holmes. I said, "I want to be heard; I want to interpose my objections to the man who branded me as a jailbird and who put me in jail without authority of law." The senior Senator from Mississippi, my colleague, said, "Senator BILBO, you can go on to Mississippi, make your speeches in the campaign in the Governor's race. I have talked to Attorney General Cummings and he assures me, and I can assure you, that the question of Judge Bryan's successor will not be raised until after this session of Congress is closed. There will be nothing done about it." With that assurance, with that faith, I went on back to Mississippi, arriving there on Sunday morning. I commenced speaking on Monday night, having left Washington on Friday; I spoke six and seven times a day in that hotly contested Governor's race; and on the 23d day of August, while speaking in the city of Oxford—a rather strange coincident—at 2 o'clock in the afternoon I received this telegram:

WASHINGTON, D. C., *August 23, 1935.*

Senator THEODORE G. BILBO,
Oxford, Miss.:

Behalf committee Mississippi State bar request your endorsement Edwin R. Holmes appointment judgeship circuit court appeals succeeding Judge Bryan. Sorry could not see you here personally. Senator HARRISON assures me no action will be taken as to district judgeship until consultation with you after Holmes appointment is made.

W. CALVIN WELLS,
President, Mississippi State Bar.

As will be noted, the telegram evidently sought to leave the impression that the only thing I was concerned about was the man to succeed Judge Holmes in the event he was promoted to circuit judge, when they knew, or should have known, that what I was most concerned about was to prevent the promotion of this man who had heaped such an irreparable injury upon my name and upon my family. Upon the receipt of that telegram, while riding from Oxford to Tupelo at 60 miles an hour, I dictated this telegram, which I sent to President Franklin D. Roosevelt:

Please do not make any decision nor take any action in the matter of appointing Judge Edwin R. Holmes to succeed the late Judge Bryan on the United States Circuit Court of Appeals until I can be heard. This man put me in jail for political reasons. I greatly resent the fact that a committee of the Mississippi Bar Association has come to Washington to force this appointment when they know I am here at home fighting Huey Long in the interest of PAT HARRISON, President Roosevelt, and the Democratic Party. Senator HARRISON assured me this matter would be held over until my return.

Upon sending that telegram the next morning, I received this telegram from the President of the United States—the telegram was mentioned in the hearings before the committee, and I sought permission of the President to put it in this record, and he gladly gave it to me—

WASHINGTON, *August 24, 1935.*

Hon. THEODORE G. BILBO,
Tupelo, Miss.:

The nomination you refer to went to the Senate yesterday afternoon several hours before your telegram was received. This was done on assurance—

Now listen to this—

This was done on assurance that it had unanimous support, and I certainly understood this included you. I am deeply sorry for the misunderstanding.

FRANKLIN D. ROOSEVELT.

When I reached Corinth on August 23, at night I received this telegram from my colleague:

AUGUST 23, 1935.

Hon. THEODORE G. BILBO,
Corinth, Miss.:
(Report delivery.)

Large delegation of prominent Mississippi lawyers representing State bar presented Judge Holmes to the Attorney General today for vacancy circuit court of appeals. You will recall the other day I told you that action would not be taken until after adjournment Congress.

My colleague remembered what he promised me.

Attorney General has just conferred with me and stated that he was sending Holmes' name this afternoon to President recommending his appointment on court of appeals. He states that this would not necessitate the filling of district judgeship immediately.

That was the same old idea that BILBO was concerned only with a district judge.

Holmes could withhold his resignation and taking oath until such time in the future as might be convenient. When nomination comes before Senate tomorrow the committee will desire to know your views. It would not do for nomination to come to Senate and fail of confirmation—

I should like to know why—

so hope you can wire me immediately as well as Attorney General whether you approve or disapprove the confirmation. Highly important, immediate answer, as we expect to adjourn tomorrow.

PAT HARRISON.

On receipt of that telegram, the next morning I sent my colleague this telegram:

Senator PAT HARRISON,
Senate Office Building, Washington, D. C.:

Your telegram in reference to appointment and confirmation of Ed Holmes as United States circuit judge received tonight, too late to answer; the office closed. You assured me on Friday, the day I left Washington, coming home to make your fight against Huey Long—

Long had promised my colleague that he would come over to Mississippi and attend to him—

whether you so consider or not that this judgeship involving Ed Holmes would not be taken up until after Congress adjourned. I depended upon your assurance. I am depending on you to have the President to withhold or withdraw Ed Holmes' name from Senate and most certainly not permit his confirmation when you know I can't reach Washington before Congress adjourns. I heard today about 3 o'clock that the distinguished committee of the bar association had rushed on to Washington knowing that I had left to force the appointment and confirmation of this political weakling, so I would have no chance to enter a protest. I immediately wired General Cummings and sent you and President Roosevelt a copy of the telegram. I demand that I be given just and decent consideration. If the distinguished committee of the bar association was composed of good Roosevelt Democrats they would be here helping to defeat Long instead of slipping off to Washington trying to put a fast one over me. Ed Holmes and no one for him has ever mentioned his promotion to me. I did get a telegram from Hon. Calvin Wells this afternoon about 2 o'clock. This was sent after the trick had been pulled. I didn't even answer it. I am speaking five times a day for you, Roosevelt, and the party, and surely can't I be given fair treatment while I am trying to kill our greatest foe? Please read this telegram to President Roosevelt, General Cummings, and file a copy with the chairman of the Judiciary Committee. I most positively object to the confirmation of Ed Holmes, and I don't mean maybe.

THEO. G. BILBO,
United States Senator.

I will say in all fairness to my distinguished colleague that he carried the telegram and presented it to the committee, and the committee did hold up consideration of the matter until the present session of Congress.

My colleague said in his telegram that "a large delegation of prominent Mississippians representing the State bar was in Washington." It would be really amusing to know just what is a large delegation in the estimation of my friend the Senator. I think I shall take the time to tell the Senate who made up the large delegation.

In the first place, there was my colleague's ex-law partner, Mr. Dedeaux; a Mr. Mize, a man who was seeking to fill the shoes of Judge Holmes in case of his promotion; Mr. Lee Guice, of Biloxi, the man who renounced the Democratic nomination of Roosevelt at Chicago and declared for the Governor of Maryland; Mr. Welbourne, of Meridian, Miss., another candidate for succession to Judge Holmes; a Mr. Miller, one of his friends; Calvin Wells, who has been dreaming all his life of being a Federal judge, the man who

sent me the telegram; Mr. Garner Green, who represents the power utility companies in the State.

That is the large delegation to which my colleague referred. One would judge from the tenor of the telegram that half of the 1,400 lawyers in Mississippi were here; but that is the crowd, just those few.

I desire here to give public expression to my gratitude to the Judiciary Committee for postponing this matter from last session until the present session and giving me an opportunity to make a permanent record of my opposition to the promotion of this judge.

My friend and colleague the senior Senator from Mississippi, while testifying before the subcommittee, said that he had no recollection of the fact that I told him on the 16th of August that I wanted to oppose Judge Holmes. When I tell you that I did so tell him, and when he says that I did not, that becomes a question of veracity between two Senators. I do not know whether it is material to this issue or not, but I will say in passing that when Senators have known me as long as they have known the senior Senator from Mississippi, I shall be willing for them to say which one they will believe.

I should like to ask the question, if I was not seeking an opportunity to oppose the confirmation of Judge Holmes, why was I seeking out my colleague to get an agreement that this matter should not be brought up while I was in Mississippi making speeches? I was to be gone but a few days.

On the 16th day of August I left Washington. On the 16th day of August my colleague assured me that this matter would not be brought up before Congress adjourned. Yet on the 20th day of August, 4 days afterward, my distinguished colleague wrote this letter to the Attorney General, and he said he wrote a similar letter to the President:

DEAR HOMER:—

That is the Attorney General—

You will recall my conversation with you touching the appointment of Judge Edwin R. Holmes, United States district judge for the southern district of Mississippi, to succeed the late Judge Nathan P. Bryan, judge of the Fifth Circuit Court of Appeals.

I shall not read it all. It merely contains some fulsome expressions of praise.

Mr. HARRISON. Mr. President, I wish the Senator would read it all.

Mr. BILBO. I shall accommodate the Senator in order to read the last paragraph. I read:

As I explained to you, Judge Holmes is an outstanding jurist, and, by reason of his training and experience, is eminently qualified to serve as judge of the circuit court of appeals. He was appointed 17 years ago as judge of the District Court of the United States for the entire State of Mississippi. The State was later divided into two districts, and since that time he has served as United States district judge for the southern district of Mississippi.

Letters of endorsement and petitions have come to me from the entire State testifying as to his unusual ability, his fairness as a judge, his high integrity, and his judicial temperament. I could file with you letters of endorsement from the entire Mississippi bar, but have felt that this was not necessary, due to the fact that you have his complete record there in your Department.

It strikes me that the Senator would have filed all those testimonials with the Attorney General when he was seeking this promotion.

Mr. HARRISON. Mr. President, they were already on file there.

Mr. BILBO. In the Attorney General's office?

Mr. HARRISON. Judge Holmes had been endorsed previously, and innumerable endorsements were on file in the Attorney General's office already.

Mr. BILBO. To succeed Judge Bryan?

Mr. HARRISON. No; to succeed one of the former judges who had been on the circuit court of appeals and who died.

Mr. BILBO. When my colleague had a chance to have him appointed during a Republican administration, as I am informed, because the President insisted upon naming the district judge, the trade did not go through.

I am attaching hereto petition of the members of the bar of Meridian, Miss., addressed to you, which I am pleased to transmit. I know that this appointment would meet with the unanimous approval of the bar of the State, who feel that he is entitled to this recognition.

I have spoken to the President and have written him touching Judge Holmes' appointment, advising him of his splendid qualifications, and pointing out the further fact that Mississippi has never been represented on this bench since its creation.

Which is true.

I am extremely anxious to see that Judge Holmes receives this appointment, and I hope that he will be given every consideration.

Here is the part of the letter to which I desired to call the attention of the Senate:

The entire Mississippi delegation joins me in this recommendation of Judge Holmes.

Sincerely yours,

PAT HARRISON.

Hon. HOMER S. CUMMINGS,
Attorney General.

Mind you, on the 16th day of August the distinguished senior Senator from Mississippi had assured me that the matter would not be taken up until after Congress adjourned, and I take it that he was making that assurance upon the basis of what the Attorney General had told him. He said so. Yet here I find the Senator on the 20th day of August, when he knew I was in Mississippi speaking five or six or seven times a day in the Governor's race, writing a letter to the Attorney General, to whom he had already presented the name of Judge Holmes and upon whom he had already urged his appointment, urging Judge Holmes' appointment, and assuring the Attorney General and assuring the President that—

The entire Mississippi delegation joins me in this recommendation of Judge Holmes.

That is what the President of the United States meant when he sent me the telegram that it had been represented to him that the appointment of Judge Holmes was unanimous, and he said, "I certainly thought that included you, and I deeply regret the misunderstanding."

Why? Because the President had before him the letter from my distinguished colleague in which he was pledging my endorsement of this man who had put me in jail. I have never been able to understand why the necessity of writing such a strong letter 4 days after I left Washington, when it was understood between the Attorney General and my distinguished colleague that the matter would not be brought up until after Congress adjourned. Why the haste? Why the hurry? This large delegation was in Washington about this time. I do not charge my distinguished colleague with being a party to the matter; but, knowing the political animosity to me politically of every member of the entire delegation that was here, taking advantage of my absence so that I would have no chance to protest, they were anxious to get it over and get through with it and get Judge Holmes confirmed before I had an opportunity to protest, because they knew of my opposition. Everybody in Mississippi, who knew anything about the history of the State, knew of my opposition.

Now, my distinguished colleague says that the Attorney General called him up and said he was going to send the name of Judge Holmes in to the White House. I wonder why the Attorney General changed his mind. The Attorney General had already assured my distinguished colleague that the matter would not come up until after Congress adjourned. Why did he change his mind? If my distinguished colleague had gone to the President of the United States and the Attorney General and said, "Here; I have assured my colleague that the appointment of a judge to fill Judge Bryan's place will not be taken up until after Congress adjourns, and he went away with my assurance that that would not happen", is there a Senator here who believes for one moment that the President or the Attorney General would have proceeded to make the appointment, anyway?

Presidents, Cabinet officers, and Government officers do not treat United States Senators in any such way, especially a Democratic President and a Democratic Attorney General dealing with a Democratic Senator—and I am 100 percent a Democrat.

Do you know what was before the Attorney General when he made this appointment to fill the vacancy caused by the

death of Judge Bryan? When the subcommittee started the hearing the Attorney General sent over the file. There it is. It is all marked. There was not anything in the file that came from the Attorney General's office except three little petitions, a resolution, and a letter from the senior Senator from Mississippi [Mr. HARRISON]; that is all.

After this appointment was made, the least my distinguished colleague could have done as a matter of respect and deference to his colleague was to have gone to the President and the Attorney General and to have said, "I wrote you a letter in which I said that my colleague joined in the endorsement of Judge Holmes. I find that I am very badly mistaken." The least he could have done was to have gone and asked them to correct the injustice done; but nothing was done.

Now I wish to discuss briefly for the benefit of the RECORD—I do not know that the Senate is especially interested—the relationship which obtained as between my distinguished colleague and myself before and after the name of Judge Holmes was sent to the Senate.

It is a well-known fact that in my campaign for the United States Senate in 1934 my distinguished colleague was openly opposed to my election. That was his right. The fact of the matter is that I insisted that he oppose me, because I thought it was good politics for him to be against me publicly in Mississippi. He announced to the world that he was opposed to BILBO and was supporting Senator Stephens. But after the election, after I came to the Senate in 1935, our personal relationship was always cordial. I never take my politics seriously. Life is too short to go around hating. Our relationship has been very pleasant, and I am indebted to my distinguished colleague for many courtesies that he has shown me since I have been here; and I have tried to be just as good as he was. I have been kind to him. I have tried to help him in many ways.

Because of this personal and social relationship, I never dreamed that he would have such utter disregard for my feelings that he would try to cram down my throat and persist in the nomination and confirmation of the man who had committed this great injury, this irreparable injury, against me and my family and my name—a stigma that cannot be removed; an odium that is bound to follow throughout the years. I thought that with the 1,400 lawyers in Mississippi, including many distinguished jurists, we could get together on possibly 25 or 50 men who would make better judges than Judge Holmes, as I am going to show the Senate in a minute. So that has been our relationship.

Now I wish the Senate to get a picture of the political situation in Mississippi.

You cannot understand the political motivation of Judge Holmes that led him to violate the law and put me in jail without a plea of guilty, unless you understand the true political picture in Mississippi.

Since 1910 the State of Mississippi has been cursed, I might say, or has been afflicted, with two very strong political factions. We do not have two parties in Mississippi; we have two factions. We are all Democrats. We have not enough Republicans in Mississippi to consume the Federal patronage when a Republican President is elected; and I may say that 75 percent of the Republicans we have in Mississippi are Republicans for revenue only. We are purely Democratic. If you will notice, in the recent survey Mississippi led the Nation in her Democracy. But we have these factions, and the lines are drawn between the factions just as tight and just as strong, and the opposition is just as bitter, as in Ohio, in Indiana, or any of the close States, as between Republicans and Democrats.

Beginning with 1910 I have been more or less involved in the political life of the State. In 1911 I made the race for Lieutenant Governor. In 1915 I was elected Governor of the State. In each instance I was elected in the first primary over a field of three and four and five. Judge Holmes belongs to the political faction which is the opposite of mine in Mississippi. He is the son-in-law of the late Senator John Sharp Williams, whom many of you knew, admired, and loved. Senator John Sharp Williams, Judge Holmes' father-in-law, was the outstanding leader of the opposite political faction to the faction in Mississippi to which I belong; and in all the campaigns of the past, while Senator Williams was old and feeble, the last trump card that my opposition always played was to go over to the quiet shades of historic Benton, in Yazoo County, and drag out the old Senator and carry him off to Jackson or Vicksburg or some other center, and let him make a speech against BILBO and Bilboism in Mississippi. For anyone to contend that a son-in-law, who lived in his community, who was a member of his household, whose daily diet was anti-Bilbo food, would not be motivated or influenced or have the political prejudices characteristic of campaigns and factions in Mississippi, is not even good nonsense. He was the son-in-law of the leader of the opposition to BILBO in Mississippi.

Oh, but this quiet, easy, pleasant, congenial, affable Judge Holmes came before the committee and said, "Oh, pardon me; I never engage in politics. Oh, I have no political prejudices." He said, "I have 70 appointees, and I never tell these appointees how to vote."

No; he does not tell them how to vote. He finds out how they are going to vote before he appoints them, and if we look over his entire official family of 70 appointees, perchance we will not find half a dozen who ever voted for BILBO in their lives; and if any pro-Bilbo men were appointed, they got the jobs because Holmes had not been advised of their political affiliations in the State. No; he does not have to tell them; they vote all right.

He says that he is not influenced by politics, and that in his action in incarcerating me in jail he was not motivated by any political hatred or prejudice or purpose.

I subpenaed Judge Webber Wilson and Colonel "Dick" Wooton, Wilson's campaign manager when he made the race for the United States Senate, to come before the committee and give testimony of the judge's further political activity in the politics of Mississippi as a Federal judge, and to my very great surprise and astonishment Judge Webber Wilson, after he had sat in my office a few days before and said to me, "Senator, I am as much interested in the defeat of Holmes as you are, because this man butted into my campaign for the United States Senate and was instrumental in bringing about my defeat, and I want to see you get him", when he was brought to testify about the participation of Judge Holmes in a famous political debate in Neshoba County, Miss., he completely somersaulted, reversed himself, and defended and justified Judge Holmes.

Possibly I should have known better, because of Wilson's record, but I could not imagine that a man would so quickly "turn turtle" in his statements as to walk into a United States Senator's office and make a statement of that kind, and then make a statement the very opposite of it.

Judge Wilson has a political history of his own. He was a Member of the House of Representatives, and some Senators, no doubt, knew him. He aspired to come to the Senate, and he dared to run against Senator Stephens. Senator Stephens defeated him, with the assistance of Judge Holmes. Then, he went back home and tried to get back his old seat in Congress and he was so thoroughly repudiated, as he had been repudiated in the senatorial race, that he ran a poor third, did not even get into the second primary. Then, in his desperation, he made his way to Washington, as many "lame ducks" do, as many public men who lose their jobs do. We come to Washington. Yes; I myself came.

Through the assistance and friendship of my distinguished colleague, the senior Senator from Mississippi, Wilson was sent to the Virgin Islands, and he made such a miserable mess as a Federal judge there that it was not long before he was given a passport back to the United States. But, through the kindness of friends in Washington, he was put on the pardon board, and he has a meal ticket now.

To show that it was a premeditated job that he was trying to put up on me as my witness, when I began to edge into him and ask him something about Judge Holmes, whether he knew anything about his inside judicial record,

with the supercilious and sardonic smile and Judas expression which characterize him, he said, "You must remember, Senator, I am your witness." He was a prevaricator, and he suddenly became the supporter of someone else.

The people of a State, the people of a community, will at last get a man's number. One cannot fool the public always. The public seems to have found out more about Wilson than I was willing to admit when he told me in my office a short time ago that he was interested in the defeat of Judge Holmes.

The committee in their report put stress upon the testimony of Judge Holmes and of Judge Wilson, and make no reference to the testimony of Colonel Wooton. Colonel Wooton was the campaign manager of Wilson, and he came on the stand and under oath testified that, as the campaign manager of Wilson, he attended this joint debate; that he saw on that occasion Judge Stephens and Judge Holmes in a hushed and whispered conversation before the joint debate was started; that Stephens pointed to a spot in the audience, and when Stephens called on Holmes to come to his rescue in the debate, he was seated at the place which Stephens had pointed out. Wooton told what took place, and he will also tell you that immediately after that debate Judge Wilson was standing behind the auditorium denouncing Judge Holmes in the bitterest terms because of his interference in that political campaign.

It was the consensus everywhere that Judge Holmes was "planted" in the audience. I do not know. That was only the charge made, possibly in the heat of the compaign, and I do not know whether or not it was true. I would be fair to the judge. At any rate, he had traveled a hundred miles and was in conference with Stephens, Wilson's opponent, just before the debate started, and he took a seat pointed out by Stephens, and he was there ready to testify. It was that testimony and that occasion which marked the beginning of Wilson's downfall.

I wish to be perfectly decorous; I want to be right in presenting the subject. Since the close of the hearings, while I was trying to have the subcommittee to go on with the hearing and to reopen the case, I received an affidavit from a very honorable, distinguished farmer down in Mississippi who was standing in the lobby of the courtroom a few days after I was defeated, after I had been put in jail in 1923, and overheard the conversation of Judge Holmes with other lawyers, in which he said, "I think I have put BILBO out of business in politics forever." They were gloating over the fact that I had been defeated for Governor. So much for the political animosity of this judge.

I wish now to discuss Judge Holmes' part in the famous Russell-Birkhead case.

A notorious lawsuit was filed in Mississippi which furnished Judges Holmes the opportunity for which he had longed, to destroy the foe of the political faction headed by his father-in-law. A poor, unfortunate woman by the name of Birkhead sued the then Governor of Mississippi, Governor Russell, for $100,000 for alleged seduction, and it was this lawsuit that gave the judge the opportunity to destroy, as he thought, the man BILBO.

At that time I was a friend of Governor Russell, and in his desperation in dealing with this enraged woman he called me to Jackson, the capital, 150 miles away—I lived at Poplarville—and asked me to intercede for him, to represent him, to try to get the case settled with the woman, and I did. I represented him as an attorney and succeeded in effecting a compromise with the woman—a compromise which prevented or kept the woman from suing him. I then went on back to my law office at Poplarville with Judge Shipman and pursued the even tenor of my way. But Governor Russell repudiated the settlement agreed upon, and then the woman sued him.

When the suit was filed in the United States Federal court at Oxford, Judge Holmes presiding, a subpena was issued for me. I lived about 300 miles away from the seat of the court, and I desire to give the Senate in chronological order the events which happened leading up to my incarceration.

First. On November 30, 1922, an order issued from the court directing the clerk of the court to subpena me as a witness in the Birkhead against Russell case to appear on December 5, 1922.

Second. On December 2, 1922, a subpena issued by the clerk of the court on the order of the court was served on me at Poplarville, Miss. I received service of the subpena.

Third. On December 5, 1922, a writ of attachment was issued to bring me into said court for the purpose of testifying.

Fourth. On December 11, 1922, the attachment was returned, and reported thereon, "Could not be found."

I will say here in explanation, the report got out that I was trying to evade attachment. I was going about my business. I had some business in the southern part of the State in a logging town. I stayed all night in the logging town; one night. I stayed in Gulfport and in Biloxi. I was on the highway attending to my legal business, and the marshal evidently did not want to find me. I was not in hiding. I did not go to Louisiana, as they tried to make it appear.

Fifth. Citation of contempt issued near the close of the December term of court for my appearance April 16, 1923.

Sixth. Writ of attachment issued under the citation of contempt January 30, 1923, calling for my appearance to answer on April 16, 1923.

Seventh. Writ of attachment executed at Hattiesburg, Miss., and I was released on a $5,000 bond.

Eighth. On April 16, 1923, a plea of guilty was entered on the records, and I was fined $100 and sentenced to 30 days in jail.

Ninth. On April 19, this sentence was modified to 10 days.

Those are chronologically the events which happened in this transaction, and not until there was a preliminary meeting of the subcommittee did I know that the charge was going to be made that I plead guilty.

Many Senators have heard it said, and have heard it whispered, "There is not anything in this case except BILBO plead guilty, and the court could not do anything else but fine him." Senators have been fed on that kind of stuff. I am telling the Senate that I did not plead guilty, and that there was no plea of guilty entered. I am going to show in a minute that the chairman of the subcommittee does not know any more about what a plea of guilty is than does Judge Holmes himself. I propose to show the Senate in a consecutive, orderly way that I did not enter a plea of guilty; that the sentence imposed on me was unlawful and was motivated by political purposes; that the bond of $5,000 was certainly an excessive bond; and that the subpena issued for my appearance, and also the attachment, were issued without authority of law.

Of course, if Senators could be led to believe that when I was charged with contempt of court I walked into court and entered a plea of guilty, then they would conclude that Judge Holmes was justified in fining me or incarcerating me. But certainly he would not be entitled to impose both the sentence and the fine on me, as he did because he did not know what the law was.

So I desire the Senate to take the facts in the case, the evidence in the case, and bear with me and let me show that I did not plead guilty, and that the committee had no right to reach the conclusion that I did plead guilty.

I will say, in all fairness to the chairman of the subcommittee, that he did not say that I plead guilty, but he said that I made statements which were tantamount to a plea of guilty. I trust the lawyers of the Senate will note that there is quite a difference between entering a plea of guilty and making a statement which somebody else might conclude was a confession of guilt or a plea of guilty. There is quite a difference between the two.

In the court on April 16, 1923, in the city of Oxford, a great crowd was present. Judge Holmes said it was a notorious case and there was a great deal of excitement about it. Here was an ex-Governor and a candidate for Governor in a heated campaign a little while before the election going to trial on a charge of contempt. There was plenty of excite-

ment at that time and he said the courthouse was running over with folks.

Standing near Judge Holmes when everything was done and said on this occasion was Judge Lee Crum, another judge, a man who had been honored in the judiciary of Mississippi by being elected circuit judge of the State courts, a man who had served on the supreme court by various and sundry appointments, a man who had been appointed to codify the laws of the State; and Senators can readily reach the conclusion that if a man had been honored by being elected judge and had been on the supreme court and had been selected to codify the laws of the State he must have some idea about law and about pleadings. Listen to what Judge Crum said:

I was in court before it was opened. Senator BILBO appeared before the bar of the court and stood up near Judge Holmes before I knew there were any contempt proceedings or anything that had anything to do with the Birkhead case. I did not know personally that he had been cited to appear and answer contempt proceedings. When Judge Holmes turned to the case and asked him what his plea was, asked ex-Governor BILBO at that time did he plead guilty, or "Do you desire to enter a plea of guilty"—probably before he asked him that he asked him if he had counsel, and ex-Governor BILBO stated that he had not. He asked him if he desired to enter a plea of guilty. Governor BILBO said "No"; but he desired to make a statement of the facts to the court.

Now, so help me God, that is what happened. When the judge propounded the question "Are you ready?" I said, "Yes." "Have you a lawyer?" I said, "I have none." "Do you plead guilty?" "No. I want to make a statement."

I went to the bar and stood within 4 feet of the judge and made the statement which I call Senators' attention to in the record. On page 5 of the hearings it will be noticed that Judge Holmes entered a judgment against me, and Judge Crum was requested to read the first paragraph. Judge Crum read this:

United States v. *Theodore G. Bilbo*, no. 5844

Comes now the defendant in his own proper person and enters a plea of guilty in this case of contempt of court. It is therefore considered and adjudged by the court that the defendant, THEODORE G. BILBO, pay a fine of $100 and be confined in the Lafayette County (Miss.) jail for the period of 30 days from and after this day. Let mittimus issue accordingly, and let capias pro finem and execution issue for said fine.

In order to get the picture in Senators' minds let me recite again exactly what happened. Many Senators have been in court. When the case was called and I answered "present", the judge said, "Are you ready for trial?" I said, "Yes." "Have you an attorney?" I said, "No; I have none." "What is your plea, guilty or not guilty?" I said, "No; I am not guilty. I want to make a statement to the court."

I made a statement to the court. I explained to the court, and as I finished my apology and my explanation of my position and the fact that I had acted upon advice of competent attorneys—as soon as I had finished the last word of my statement the judge said, "I find you guilty. I fine you $100 and 30 days in jail, and to pay the costs. Mr. Marshal, take charge of the prisoner."

It was done as quickly as I am telling it to Senators now. The distinguished chairman of the subcommittee reached a conclusion, because I had said that I had received the subpena. However, I said that upon advice of attorneys I was under no obligation to attend the court, and if I did attend, I would attend as a voluntary witness, when the judge took advantage of my explanation and my apology to say, "You are guilty." I had denied any guilt; I was not guilty of contempt, as I will show in a few moments by the law and by my own conduct.

Following the reading of this judgment by Judge Crum, he was asked if he thought it was entered correctly, according to the statement made by Senator BILBO.

Here is what Judge Crum said about it.

Senator BILBO did not plead guilty.

Mind you, here is a judge, a man whom you are not going to question, here is a man who was standing within 10 feet of Judge Holmes and of me during that time and heard all that was said:

Senator BILBO did not plead guilty. I heard every word and saw everything that happened in the trial that day, while I had nothing to do or no connection whatever with the case and didn't know it was about to be called up. I was sitting within 10 feet of Judge Holmes and Senator BILBO when what I saw and heard took place.

I read further from the same page. Crum was asked the question:

Mr. SMITH. Did Judge Holmes say to ex-Governor BILBO, "I refuse to accept your plea of nolo contendere, and require you to plead either guilty or not guilty"?

Mr. CRUM. No; he did not. He did not. Mr. BILBO stated probably more than once, "I am not guilty of contempt, unless it might possibly be a technical contempt."

On page 6 of the printed hearing Judge Crum was asked this question:

Mr. SMITH. It is your opinion, then, as a lawyer, that this statement of the court that ex-Governor BILBO had entered a plea of guilty is in error?

Judge Crum replied unhesitatingly:

I know he did not plead guilty. A man does not have to be a lawyer to know that.

We have here the affidavits introduced of Mr. Gerald Fitzgerald, representing Judge Holmes in this case, and I want to call attention to a statement of Mr. Fitzgerald in the brief filed by him with the committee:

We have produced for this committee the testimony by affidavit of Hon. James Stone, Philip Stone, Attorney Foster, Attorney McNeill, Attorney Boyette, Attorney Cox, Deputy Marshal Cook, Deputy Clerk Vance, the statement of Judge Holmes, and the judgment of the court, that the plea of Senator BILBO to the court was that of "guilty."

If you will take these affidavits and go through them, analyze them, scrutinize them, read them, and weigh them carefully, notwithstanding the fact that Honorable Fitzgerald told the committee that all of these affiants had sworn that BILBO entered a plea of guilty, you will find only three affidavits where there is any suggestion that BILBO entered a plea of guilty, and two of those were from officers of the court who had entered the order according to and under the direct instruction of Judge Holmes and would stultify themselves and incriminate themselves if they did not say that I plead guilty because the judge had ordered them to enter it; it was their entry under the instruction of the court. Though they tried to prove that BILBO entered a plea of guilty, of all the affiants, only one lone witness, a "disinterested" party, says that I did. I wonder who he is. Let us see. His name is W. G. Boyett, of Jackson, Miss. W. G. Boyett was practicing law in Oxford at the time but he now lives in the city of Jackson, and is possibly the most despicable and the most despised and irresponsible citizen in the State capital of Mississippi today. I produced before the committee a statement from the superintendent of the insane asylum at Jackson, Miss., which is as follows:

Attorney W. G. Boyett committed by chancellor as drug addict first, August 5, 1929, released same day, returned nine fifteen twenty-nine, released ten seven twenty-nine, returned seven fourteen thirty, released ten eight thirty, returned twelve twenty nine thirty, released one four thirty-one, returned five or two thirty-one, released five ten thirty-one, returned six two thirty-one, released six thirty-one, returned eleven six thirty-one, released eleven fifteen thirty-one, returned one twenty thirty-two, released one twenty-five thirty-two, returned four nine thirty-two, released four fifteen thirty-two. Diagnosis alcoholic phychosis, chronic alcoholism.

Dr. J. M. ACKER, Jr.

Is that all? That is just one side of Judge Holmes' star witness to prove that BILBO plead guilty. I now read another statement:

W. G. Boyett, attorney, in jail numerous times, the following in year 1933: January 5, charge, public drunkenness, fine, $6; February 6, charge and fine same; April 28, same charge, 15 days; May 17, same charge, $10; October 30, charge and fine same; December 4, charge and fine same; December 16, charge same, case dismissed; September 13, 1934, same charge, fined $10, case appealed, county court convicted, there appealed circuit court, case affirmed November 1935 term.

Procedendo now in hands of officers enforce fine and costs of appeals unexecuted. Boyett now in Hot Springs. Boyett committed to insane hospital as drug addict and habitual drunkard, chancery court, Hinds County, case no. 17,700, docket no. 16, August 20, 1929, order minute book 27, page 73.

JNO. G. BURKETT.

That is the type of witness, except his own court officials, that the distinguished judge brings here to prove that BILBO plead guilty at Oxford on the 16th day of April 1923.

Now, he says that the court room was crowded. They had the strong arm of the Government at their disposal; they had its strong treasure box at their disposal. All they had to do was to tell the subcommittee, "We want these witnesses brought here, and they would have been brought. There can be no question about that. Yes; they say the court room was crowded; and yet when called upon to prove that BILBO plead guilty the affidavit of W. G. Boyett was the only one they attempt to prove it by except by Judge Holmes and his little coterie of court officials, who had to swear according to the orders of the court. Why did they not bring some reputable people here to prove that BILBO plead guilty? They did not do so because they knew that I did not plead guilty. Well, if I did not plead guilty, then why does the record of the court show that I plead guilty? I have just told the Senate that the minute I got through making my explanation, the last word had hardly left my lips, when the judge said, "I find you guilty and fine you $100 and 30 days; take charge of the prisoner, Mr. Marshal." It was done that quick. I do not know what record was made by the court at Oxford.

Oh, but it may be asked, "Why did you not appeal?" I was a candidate for Governor, and by the time I would have gotten the appeal started I would have served out my time in jail; and I made the best of it while I was in jail.

Judge Holmes said before the committee:

> The matter had attracted a great deal of public attention, and at the time the case was called the courtroom was crowded. There is no trouble about proving what Senator BILBO said and what I said and what took place there. There was only standing room in the courtroom.

Yet, with a great crowd, with standing room at a premium, they bring only one witness here, "disinterested", to show that BILBO entered a plea of guilty, which was the vital point in this case, and that witness has spent most of his time in the asylum and the rest of it in the county jail at Jackson.

I do not think any reasonable Senator or any Senator whose mind is open to conviction will doubt the statement when I say that I did not enter a plea of guilty and that whatever record was made was made upon the initiation of the judge, construing the law just as the reporter of the committee tried to construe it upon the statement that I had made an apology and an explanation.

Let us look at the actual plea that I did make. Let us analyze it; see what is in it. I do not want to be tedious, but I appreciate the importance of these underlying facts upon which this case hangs; and if the Senate will have patience with me, I think I will be able to establish to any Senator whose mind is open that this was a case where the judge willfully violated the law of this Nation in order to put a political enemy in jail and destroy him. I am predicating this fight upon the establishment of that one fact as well as other facts. The fact that he is personally obnoxious to me is predicated upon that point.

On page 3 of the printed hearings, let me again call attention to the testimony of Judge Crum:

> Mr. CRUM. Well, Senator BILBO said that the reason he did not appear in answer to the subpena that had been served upon him was because at that time he understood, as had been the practice for years and years under the law, that a witness who lived over 100 miles from the court, and who was subpenaed in a civil case, could not be required to attend unless he was paid 1 day's per diem or attendance and mileage or expenses, and he said to the court: "I did not know that that rule had been changed by the statute of Congress"—if it had been changed. For that reason he said he didn't think he was required to attend.
>
> He further said that all he knew about the case was what knowledge he had gained as an attorney and as a privileged communication, and that he knew nothing he could testify would be competent in the case, for he knew nothing whatever about the merits of the case except from talking to one or the other of the parties.

In other words, Judge Crum testified that what knowledge I had with respect to the Birkhead-Russell case had been gained as an attorney and was, therefore, privileged, and that under the law I could not be compelled to attend court because of living 300 miles from the court.

On page 4 of Judge Crum's testimony the following questions and answers are recorded:

> Mr. SMITH. In other words, he meant he would have come as a voluntary witness?
>
> Mr. CRUM. Yes; that is what I understood.
>
> Mr. SMITH. But at the same time, he felt that under the law he could not be forced to come?
>
> Mr. CRUM. Yes. His defense was predicated on the idea that under those circumstances there could not be any contempt of the court.

Certainly not.

> Mr. SMITH. The reason he thought he was not forced to come was on account of the fact that he could not be made to attend where he lived more than 100 miles from the court?
>
> Mr. CRUM. And had not been paid 1 day's attendance and mileage or expenses.

In the affidavit of Colonel Stone, which was submitted in the hearings, I note on page 39 of the printed hearings these words:

> Senator BILBO stated that he deliberately did not obey the process of the court, because he was under the impression that such process did not run out of the district.

That is true. That was the plea that General Stone referred to by counsel and which he stated in his affidavit I had made to the court.

Judge Holmes, on page 75 of the printed hearings, made this statement:

> He (BILBO) said, "I received a subpena, but it was in a case I did not want to have anything to do with. I took the subpena to my former law partner, Judge Shipman, a man in whom I had confidence. I knew Judge Shipman and had confidence in him. He said, "Judge Shipman told me the subpena was void, and not wanting to have anything to do with the case, I did not come. With that explanation I submit the matter to the court."

Judge Holmes said there I did not plead guilty, but that I submitted the matter to the court. Some of the Senators present are lawyers. Some of them have law partners. I had a law partner, Judge Shipman, who was noted for his profundity and his legal learning. When I received this subpena we went into our law library, and we had a good one. We ran down the authorities and read the statutes and both came to a conclusion. It was his advice that unless I wanted to go to this "pot and kettle" lawsuit at Oxford as a volunteer witness, I would not have to go.

Acting upon that advice, after having made a thorough search of the authorities and the statutes regulating such cases, certainly there was nothing else to say to the court except that I had received the subpena and, not wanting to have anything to do with the affair, not wanting to appear as a voluntary witness, knowing that whatever I knew of the case was privileged, I certainly would not have been of any benefit to anybody in the case, because lawyers do not reveal the secrets of their clients on matters that come to them through their fiduciary relationship.

That was the statement made. That is what I did. That is all I did. I assured the court in making the statement that I had no desire, no purpose, no intention of being in contempt of the court. I tried to have as much respect for the courts of my country as anyone, being at that time an ex-Governor of the State and also a candidate for Governor, and I did not want to violate any law. I have tried to obey the law.

With all these explanations on that day, this sweet-smelling, congenial, affable judge, whom the committee has seen, was thrown into a bitter rage. He turned as white as the papers on my desk, his lips trembled like aspen leaves, and he said, "I find you guilty, and sentence you to 30 days in jail and $100 fine and costs. Marshal, take charge of the prisoner."

That is sufficient about the real plea that I presented. Those are the facts. That is the truth about it.

It will be noted on page 12 of the hearings that I made the following statement:

> I think it pertinent here at this point to state that in order to show the anxiety of Judge Holmes to disgrace and destroy me politically, and forever have me denominated as a jailbird, he so

far forgot his duties and his oath of office that he imposed upon me recklessly a sentence that he was wholly unauthorized under the law to impose and with such swiftness and so summarily that he evidently had not even looked up the statute which vested in him authority to make sentences in cases of contempt.

In this connection, your attention is invited to the fact that title 28 of the United States Code, section 385, enacted on March 3, 1911, which was then in full force and effect, specifically provides that a judge of a Federal court in case of a contempt for failure to comply with a subpena or process of the court may punish by "fine or imprisonment", but not both. The judge cannot plead ignorance of the law, because he had been on the bench 5 years at that time. Here he was imposing a sentence in direct violation of the statute.

I know judges sometimes make mistakes. Even when they get on the Supreme Bench it has been charged that they make mistakes. Evidently some of them make mistakes when they decide cases 4 to 5 or 3 to 6. But here was a man who had been on the district bench of the Federal court in my State for 5 years and who did not even know the law regulating the sentence to be imposed in a contempt proceeding. He said it was a notorious case. The court room was crowded, standing room was at a premium, and the whole State was interested because an ex-Governor, a candidate for Governor, was at the bar.

Does it not impress you, Senators, that if a man was judicially fitted for a position of this kind he would at least have taken time to find out just what kind of a sentence he could inflict? Oh, no! He was so eager, so anxious to destroy the man who had led the faction against his father-in-law—and I had been in many of his battles—that he did not even stop to find out what the law was, but said, "I give you 30 days in jail and fine you $100 and costs. Mr. Marshal, yank him off to jail." That is what happened. That judge did not know what the law was until he reached Washington and appeared before the Senate committee and his attention was called to it.

Let me read just what Judge Holmes had to say about this unlawful sentence which he imposed on me. I refer to page 76 of the printed hearings, where the judge said, "This is a copy of the judgment." Then follows this entry:

Minute book 19, page 82, Monday, April 16, 1933. Comes now the defendant in his own proper person and enters a plea of guilty in this case to contempt of court.

Of course, when he found me guilty he said to the clerk, "Go ahead and write it up and put it on the docket." Then the judgment in his statement before the committee adds these words:

Now, Senator BILBO's plea of guilty was unexpected. I sentenced him immediately.

He said he did it immediately, it will be noticed—

I did not look at the statute. Most Federal statutes provide a fine and imprisonment. If I had looked at this statute I would have seen that it provided for a fine or imprisonment, but I did not. I frequently sentence without looking at the statute, when I know the sentence I am going to give is small and well within the power of the court. So I entered that sentence of a fine of $100 and 30 days in jail. Senator BILBO made no objection to the sentence, nor was any appeal requested, nor any statement made, by him or any other person, that the sentence was unjust, unfair, or improper. Later, by reason of the clemency which I showed the Governor, the error was automatically corrected.

He did not correct it because he had gotten smart and because he had learned what the law was, but he said that it was corrected automatically. I will tell the Senate why he corrected it. He corrected it because there was such reaction politically throughout the State until his political advisers came to him, as Judge Crum's testimony will show, including Judge Stone, the Nestor of the Mississippi bar, and said, "If you do not modify the sentence against the candidate, ex-Governor BILBO, the reaction in the State will be such that he will defeat our man for Governor." It must be remembered that Judge Crum's group was fighting me politically. He was supporting Judge Whitfield.

When this unreasonable and unheard-of and illegal sentence was imposed on me he got this word from Judge Stone, who was a close friend of Holmes, and who was also supporting Whitfield against me. He was told, "Go and see this judge and make him change this sentence, because if something is not done the reaction of the people of Mississippi will be such until he will be elected Governor in spite of all we can do."

Judge Stone testified under oath that he went and persuaded the judge to change that sentence. He said the judge came back later and said, "I did change it according to your request and as you suggested." He based it on political reasons then, that with the 30 days in jail branding me as a jailbird for all time to come, it would have the effect of destroying their faction, and when he was told by his political advisers that he had overdone the thing, then for political reasons he modified the sentence and by that political modification succeeded in correcting and making the sentence legal so far as a legal sentence could be imposed in a contempt case, but not in this case.

That is what really happened.

I did not expect Judge Holmes—and I am sure Senators did not—to come to Washington and say that he was actuated by any political motives in putting me in jail—certainly not. The only way you can determine whether or not he was actuated by political motives is to determine his environment and his attitude and his activities. If he is not controlled politically, why is it that his entire political family belongs to one political faction? Why is it that he went out and traveled a hundred miles to participate in the political debates that shaped the destiny of two human lives and affected the whole State in determining who should be the United States Senator from Mississippi at that time? Why is it that he does not appoint anybody except those who belong to his political faction if he is not a politician?

I repeat that Judge Holmes has spent his life in a political atmosphere, motivated, controlled, influenced by politics.

Now, I desire to discuss with you the law. I wish to try to show you, if you will be patient, why this subpena which was issued was illegal; and I believe I can do it.

I believe I can establish, first, that the law at that time governing the issuance of the subpena which was served on me on December 22, section 876 of the Revised Statutes of the United States, did not apply to a witness—as was the case with me—who lived more than 100 miles from the place of holding court.

Second, I shall further undertake to show that section 876, as amended 40 days prior to the date the subpena was issued for my appearance in Oxford in the Birkhead case, was not applicable to litigation between private citizens, but only to cases in which the Government was a party; namely, the so-called war-fraud cases.

Third, I shall endeavor to prove to you that in the event section 876 as amended could be made by any possible interpretation to apply in my case, the issuance of the subpena for my appearance in the case was not a valid and legal issuance, and failed to conform to the manifest requirements of the aforementioned statute.

Now, let us see what the law was at that time. I have it here. Let me read it from the book itself, so that there will not be any question about it.

The law of the land for 100 years in the subpenaing of witnesses in Federal courts is section 876, page 4848, of the United States Revised Statutes:

SEC. 876. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district: *Provided*, That in civil causes—

Not criminal—

the witnesses living out of the district in which the court is held do not live at a greater distance than 100 miles from the place of holding the same.

Oxford was the seat of the court. Poplarville, BILBO's home, was 300 miles away. The subpena was issued under this statute, section 876 of the Revised Statutes of the United States. That was the statute under which the subpena was issued.

I desire to read you a letter written by Judge Campbell, the attorney who represented the plaintiff in this case:

Yazoo City, Miss., November 17, 1922—

Here is where they are getting ready to subpena BILBO—

Clerk of the United States district court, Oxford, Miss.—

It is not addressed to the judge, but it is addressed to the clerk—

DEAR SIR: We desire to have some witnesses summoned in the case of Birkhead v. Russell for the plaintiff. Section 876 of United States Revised Statutes requires that you issue the subpena and direct same to the United States marshal of the southern district, where witnesses reside in the southern district. Please issue subpena directed to marshal of southern district for the following witnesses: Hampton Cox, Ernest Farish, William McGraw, Kirk Whitehead, and William Riley, all residents of Yazoo County. Please send the subpena to us, and we will have the marshal serve same.

Yours very truly,

CAMPBELL & CAMPBELL.

There is the actual letter as taken from the records in the case.

When they start to subpena the witnesses in the Birkhead case, a civil suit between this woman and the Governor of the State, the leading attorney, the man who lived in Judge Holmes' town, right next to the chambers of his court, writes the clerk a letter and gives him the names of the witnesses to be subpenaed, and specifies that they shall be subpenaed under section 876 of the Revised Statutes of the United States Government, which provided that if you lived more than 100 miles away from the seat of the court you did not have to go, and if you went more than that distance in a civil case you went as a voluntary witness.

All right. There is not found in all the records of this case—and I had the entire record brought here from Oxford, Miss., to establish that fact—there is not found anywhere a letter from any attorney subpenaing BILBO to appear as a witness in this case; but there is this:

TO THE CLERK OF THE UNITED STATES DISTRICT COURT OF THE WESTERN DIVISION OF THE NORTHERN DISTRICT AT OXFORD, MISS.

You are hereby directed to issue subpenas for Mrs. C. F. Skillman and Eli Rainer, residents of Memphis, Tenn.; and Theodore G. Bilbo, who resides at Poplarville, Miss.; and Will Perry, Jr., a resident of Meridian, Miss.; and Dr. Henry Boswell, who resides at Magee, Miss.; and E. E. Frantz, of Jackson, Miss., witnesses for the plaintiff in the above-styled case.

Witness my hand this the 20th day of November 1922.

E. R. HOLMES,
Judge of the United States District Court for the State of Mississippi.

This order of Judge Holmes, issued in chambers at Yazoo City, directing the clerk at Oxford to subpena these witnesses, was also made under section 876 of the Revised Statutes of the United States. It could not have been made under any other statute. If it was made under section 876, then BILBO did not have to attend the court at Oxford, because I lived 300 miles away; and with all the false representations and all the fake appearances here and misrepresentations by the judge and others in this case, trying to leave the impression that they were operating under another statute, it is a fraud upon the committee and a fraud upon the Senate, because we have here the records which show that they were operating under section 876.

On September 19, 1922—some of you, my colleagues, were then in the Senate—a law was approved which you had passed. If you remember, Congress had appropriated large sums of money to prosecute these dollar-a-year "patriots" who had been making money out of the Government during the World War. Harry M. Daugherty was then the Attorney General. It seems nothing had been done; and Daugherty, as an alibi possibly—I do not know—writes a letter to the Judiciary Committees of the Senate and the House—I have a copy of it here—in which he says that if Congress will only amend section 876 of the Revised Statutes and make it possible for the Government to bring witnesses across the country where they live more than 100 miles from the court, so that he can bring defendants also wherever the Government is a party to the litigation, he will be in a position successfully to prosecute these frauds. Upon the representation of the then Attorney General, Mr. Daugherty, Congress passed and the President approved on September 19, 1922, just 40 days before this Birkhead case was called in the city of Oxford, a bill amending section 876 of the Revised Statutes by putting on it this proviso:

Provided, That in civil cases no writ of subpena shall issue for witnesses living out of the district in which the court is held at a greater distance than 100 miles from the place of holding the same without the permission of the court being first had upon proper application and cause shown.

Let me read you some more of this. Here is the red-letter sign to any man who has a judicial mind, or any man who is fit to be a judge:

This amendment shall be effective for a period of 3 years after the date of the passage of this act, after which, section 876, as it exists in the present law, shall be and remain in full force and effect.

I have here the discussions on this bill in Congress, in the House and in the Senate. It never was the intention of Congress to change the law that had obtained for a hundred years that a man could not be compelled to attend as a witness in a civil case before a Federal court if he lived over 100 miles from the seat of the court. He could not be made to go to court by your process, by your subpena, under this amendment. It never was the intention to touch civil matters. It was only to give the Government, where the Government was a party, an opportunity to uncover these war frauds, and to run down these scoundrels who had been robbing the Government as a result of conditions immediately following the World War. That was the purpose of the statute; and to any man who had a judicial mind, when he read the statute and saw that the amended law was to last only for 3 years, that was the red-letter sign of warning of danger that the amended law was not intended for the ordinary affairs and the ordinary litigation of this country, but it had a specific purpose to serve. Otherwise it would not have been provided that it should be automatically repealed in 3 years.

Judge Holmes says that he knew about this statute 40 days after it was passed. He is such a close student that he knew about it, and he was attempting to bring me to court under this war-fraud statute. That is his contention, and I am telling the Senate upon my word of honor that I honestly believe, and I think the physical facts and that the record will show, that Judge Holmes knew nothing about this new statute until the case was called in Oxford and until they began to seek ways and means to bring BILBO to Oxford under an attachment. That is when he found it out.

Mr. President, this is the strange thing about it, this is the queer thing about the case: This poor, little, miserable misfit, this human wreck, this prevaricator, whom you can get to say anything for $5, the only witness whom Holmes brings here to prove that I plead guilty, this poor, little, unfortunate human being was the man at that time who told the lawyers in the case about this recent act of Congress 40 days before the court met in Oxford, when they were devising ways and means to bring BILBO to the Oxford court. They shot out of the consultation room liks bats out of hell trying to find that new statute. Then it was they conceived the idea that they could attach me and bring me to court and cite me for contempt, and not until then. All the proceedings in the case show conclusively that they were proceeding under section 876 of the Revised Statutes of the United States.

Mr. President, I have searched the records, I have searched the lawbooks, and I have failed to find anywhere a case on record like the one I am now discussing. There has been only one judge, so far as I can find from a search of the lawbooks of the country, who tried to use the amended statute of 1922 to bring witnesses to his court who resided more than a hundred miles away, and that case arose in the State of Ohio. It was the case of Benedict against Seiberling, reported in 17 Federal Reporter, 2d series, page 845. Let me read what the court said. The case was tried in Ohio, and the court stated:

The motion seeks the attendance upon this court as witnesses, in the hearing of this special issue, of seven persons, including the plaintiff, who resided more than 600 miles from the city of Toledo. While the course under the code (sec. 1239, Barnes, amendment of 1922) the court could put these several witnesses to this great personal inconvenience, yet it is manifest that neither in its own interest nor with any decent regard for their rights or those of the plaintiff and her counsel should it do so unless it appears with reasonable clarity that they may be brought to testify to facts material to the alleged issue; and that should appear upon the moving papers.

Granting that they were trying to proceed under this recently found statute, which had been born only 40 days before, and they did not find that out until court met in

Oxford—granting that they were trying to proceed under that, in the only case upon record where any light was thrown upon this new kind of litigation the court refused to issue an attachment, and the court said:

> Before you can take advantage of it you must show upon the moving papers, you must have a written motion, you must set up the facts, you must allege the materiality of the witness and what you expect to prove by him before the court will be authorized to exercise this power under this special statute.

The court so held.

There is not a line or a scratch in the whole file which has been brought from the court in Oxford to show that one thing was written in the whole record indicating that BILBO was a material witness when they subpenaed him, or even when they attached him. To those who have any conception or any regard for legal procedure in this country it seems more like a moot court performance than an action in a court of law.

The lawyers of the Senate know, they understand, that an attachment cannot issue, unless it is shown upon the papers in the record, upon the written petition, upon the written motion, that they were complying with section 876 as revised in 1922 by an act of Congress, if they were proceeding under the old statute, which has been the law for a hundred years, and that is what they were doing. If they were doing that, then any subpena they issued for my appearance at the Oxford court was absolutely and unquestionably illegal.

While this matter was under discussion before the subcommittee I telegraphed one of the attorneys in the case down in Oxford to see just when they found out about this new law, and I have here a telegram from Judge Falker, of Oxford, Miss., as follows:

> Compulsory process for witnesses not discussed by Birkhead-Russell counsel in my presence. I did not know of the amendment at that time and feel sure that none of the attorneys in the case were advised of the change.

I am telling the Senate that they did not know of it. The judge on the bench did not know about it. He had not found it out.

Mr. MINTON. Mr. President——

The PRESIDING OFFICER (Mr. MOORE in the chair). Does the Senator from Mississippi yield to the Senator from Indiana?

Mr. BILBO. I yield.

Mr. MINTON. Did the Senator reside in the same district with the court which issued the subpena?

Mr. BILBO. Did I reside in the same district?

Mr. MINTON. In the same district.

Mr. BILBO. At that time Mississippi was all one district. We had only one judge for the two districts of the State. We now have two districts, with a judge in each district.

Mr. MINTON. At that time the State of Mississippi comprised one district?

Mr. BILBO. One division with two districts, southern and northern. I was 300 miles outside of the district in which the court was held.

I will now ask Senators to note this testimony from page 83 of the hearings:

> Senator BILBO. Without application or cause shown, you issued that order to the clerk?
> Judge HOLMES. I think it was a written petition, but I do not find it in the files.

He thought so, but he said he did not find it in the files.

> Senator BILBO. It is not in the files.
> Judge HOLMES. It is proper for me to act on a written petition. That is my recollection. Mr. Campbell was an experienced lawyer.

He admits that it would have been proper, but there was not any petition. He was trying to leave the impression, trying to get it over to the committee, that there was one.

I am stating that his whole presentation of the facts in the case is a fraud on the committee, and by the time I get through with the acts of the judge, the Senate will understand thoroughly why it is possible for him to do a thing like this.

It does not require any argument to convince any sane mind that if the subpena was illegal and unlawful, without any potency, without any force, then any attachment issued upon that subpena would be just as illegal and just as lacking in potency and effect. Judge Holmes remembers very distinctly how important my testimony was when he was faced by an application made by the attorneys for the plaintiff for a writ of attachment for me. He recites in the hearing every detail of the things which transpired immediately prior to issuing the writ of attachment.

Hon. T. R. Foster, one of the attorneys for the plaintiff, made an affidavit a portion of which I wish to read. He was a lawyer in the case for the plaintiff. He is not my friend; he has always been my bitter enemy. He said in his affidavit:

> When the case was called for trial at Oxford, he [BILBO] did not appear, and the attorneys for the plaintiff asked for an attachment. Judge Holmes hesitated about issuing the attachment and questioned the attorneys as to whether the court had the power to issue it.

Mr. President, do you think a man has judicial ability sufficient even to be a decent justice of the peace if he has to stop and hesitate and ask the lawyers to find out whether he has the right to issue an attachment upon a subpena which had not been obeyed, when he knew that if the subpena was lawful and right, under the statutes and laws of the country, if I had failed to respond to the subpena, certainly the attachment would be legal; and if the subpena was not legal, the attachment would be illegal? As his attorney says, Judge Holmes hesitated, and Judge Holmes wanted some advice.

He was in doubt. He was in the clouds. He could not tell whether he was right or whether he was wrong, and he sought information about whether he had a right to attach me. Up to this time Judge Holmes had not found out about this new act of Congress; but he knew that, under section 876 of the Revised Statutes, he had no power on earth to attach me to come to the court, because the subpena was not valid, and had no legal effect.

Mr. MINTON. Mr. President——

The PRESIDING OFFICER (Mr. MOORE in the chair). Does the Senator from Mississippi yield to the Senator from Indiana?

Mr. BILBO. I yield.

Mr. MINTON. Is it the contention of the Senator that, even though the Senator were in the district of the court, even though he resided 100 miles from the court, the subpena would not reach him?

Mr. BILBO. I was not in the district of the court. I was in another district.

Mr. MINTON. I thought the Senator said Mississippi was one district.

Mr. BILBO. Mississippi is divided into two divisions, the northern division and the southern division, as I understand.

Mr. MINTON. Is it one district with two divisions?

Mr. BILBO. It is one district with two divisions. I lived in the southern division, and Judge Holmes was holding his court in the northern division, 300 miles away; and in order to subpena me he had to come across into the other division.

Mr. MINTON. Then, the Senator did not reside in the division in which Judge Holmes was holding court?

Mr. BILBO. No; I did not.

I was reading the affidavit of Mr. Foster. I continue reading:

> Time was allowed for the attorney to look up the authorities.

Oh, yes; he adjourned his court. He suspended operations and sent the lawyers off to find out what the law was; and it was while they were on this quest that they discovered that on September 19, 1922, Congress had passed a law for the purpose of uncovering the war frauds of the country.

> They went around to General Stone's office, where there is a good library, looked up the law, and convinced the court that he had the right to issue an attachment for Senator BILBO. * * * Before granting the attachment the following facts were presented to the court and upon which he acted showing the necessity for Senator BILBO's presence: Letters from Senator BILBO to Miss Birkhead, that the allegations made by her against Governor Russell were true, within the knowledge of Senator BILBO; Miss Birkhead's statements that Senator BILBO had acted as a "go-between" for Governor Russell and herself.

In ordinary parlance we do not call lawyers "go-betweens." We say attorneys representing clients. I continue reading:

> And had for Governor Russell paid her large amounts of "hush" money; Miss Birkhead's statement that Senator BILBO had prom-

ised to attend the trial and give testimony; the statement of Miss Birkhead's attorney that Senator BILBO, through his personal attorney, Hon. Pat Henry, of Vicksburg, Miss., had assured the attorneys for the plaintiff that Senator BILBO would attend court and give testimony.

Senators will see that that is hearsay.

Upon the above showing the court delayed the trial for several days and ordered the issuance of attachment for Senator BILBO.

* * * * * * *

When the court finally again took up the trial, Senator BILBO was still missing; but the plaintiff was compelled to go to trial under protest.

Judge Holmes knew that I was an attorney at law, and that I had been practicing law for a number of years. Judge Holmes says, if he gets his dates right, that we attended the University of Michigan at the same time, in the same class. I have no recollection of him. He made no impression on me. I do not remember it. Judge Holmes had to find out what the law was before he could proceed to issue his attachment for me; but he knew that the showing made was untrue, or, if he did not know it, then he is an unfaithful judge.

He knew that I was attorney for Governor Russell. He knew that whatever I knew about the case was privileged communication. He knew that I, as an honorable attorney, could not testify about the information in my possession. He knew all that; and yet he granted the attachment upon the ground that I was a material witness. He knew I was not a material witness; he knew I could not testify; but what he was after was the attachment to get a chance to get a contempt case against BILBO. Anything to monkey with BILBO.

Judge Foster, who represented the plaintiff, said they had to go on through the trial of the case under protest. If Judge Holmes believed in his heart as an attorney that I was a material witness, and that the success of the plaintiff's case depended upon my testimony, he was untrue and unfaithful to the plaintiff's cause when he forced the plaintiff to trial in the face of the fact that I was absent. But he knew that I was not a material witness.

McNeil, the man who represented the plaintiff, and who is now trying to come to the rescue of Judges Holmes, the man who made the motion to have me cited for contempt, knew it. Why did he go on to trial? Why did he not file a motion setting up the facts and asking for a continuance? If BILBO's testimony would have saved the plaintiff's case, pray tell me why did they not appeal from the decision of the court? No; the fact of the matter is that the whole case was a political set-up. It was a kind of a fishing expedition of some political lawyers, trying to start something politically in the State. I have no defense for the plaintiff in the case—or the defendant, either. I think it was a case of "the pot and the kettle" controversy. The woman should not have recovered.

There is not a lawyer in this body who will contend for one minute that either the attachment, the order citing me for contempt, the trial for contempt, or the fine for contempt was legal, unless he goes back to the very beginning and says that the subpena was legal; and I think the record of this case, the action of the attorneys, the action of the court, and the law, show conclusively that the subpena never was legal. Therefore, if the subpena was illegal, and the process employed was of no effect, everything they did, so far as BILBO was concerned, was illegal, and any lawyer who knows anything about the law knows that to be true.

Mr. President, having covered the legal phases in a brief way, showing that the subpena was illegal, showing that the attachment was necessarily illegal, showing that the citation for contempt was illegal, showing that the bond for appearance was illegal, showing that the sentence of the court was illegal, showing that there was no plea of guilty entered, and establishing even by the words of Judge Holmes himself that I went before the court not with a plea of guilty but with a mere statement of the facts, acting in good faith, assuring him that I was acting upon the advice of a competent attorney, a man for whom he has high respect, that there was no intention, and there could not have been any intention on my part to be in contempt of court, and establishing in Senators' minds that the action of the court showed that he knew that I was not a material witness, I believe I have proved by the way he handled the case that he is an unfaithful judge.

There can be no reason on earth for the action of the court in sending me to jail. There must be something else behind it; and that something else, my friends, was motivated by the political prejudice that was characteristic of the judge and his household. It was to destroy the man BILBO, a member of the faction that opposed his father-in-law in the political life of Mississippi.

Now I desire to take up a different phase of the case. I wish to discuss the necessity of sustaining a motion to recommit this nomination to the committee for rehearing, for a reopening of the case, for a full, complete, square, fair, honest, and just investigation of the facts that I have charged against Judge Holmes in this case.

As I stated a while ago, when I came to Washington in January of last year, because of the pleasant and affable and congenial relationship which existed between the senior Senator from Mississippi and myself, I never dreamed that we should have such a hearing as we are having today. I never dreamed that my colleague would try to cram this man down my throat, over my protest, when he knew of the great injury this man had done against me and mine, illegally and without justification. Therefore, on the adjournment of Congress last year I made no investigation; I made no effort to find out anything about Judge Holmes and his inside record as a judge.

I have not been associated with the courts in recent years. I have been in office, or running for office. I have not been in the courts. I have been devoting myself, as many Senators have been doing, to building my political life. So I made no efforts to investigate Judge Holmes. But when it seemed that a fight was going to take place, and the newspapers began to carry the news, I began to get telegrams and letters from lawyers, from my friends, telling me of the judicial misconduct of Judge Holmes outside of my own case.

Then it was that I suggested the reopening of the hearings of the subcommittee; then it was that I submitted additional charges against the judge; and at the suggestion of the committee they were willing to wait until I could go down to Mississippi. When I heard about the various acts of which as a judge he was guilty, such as gross violations of his duties and prostitution of his office, I stated to the committee, "If you will give me a few days—I have got to make a trip home—I will try to find out what I can as to the facts. I will be fair with you. I will bring them back and put them on the table, face up, and we will have an investigation." When I returned I set forth a lot of facts which I believe will disqualify this man from enjoying promotion at the hands of the United States Senate. I insisted that I be permitted to bring witnesses to prove the charges; but to my very great surprise, instead of the committee permitting me to bring my witnesses here, I walked into the committee room and found Judge Holmes there on the stand trying to explain, trying to justify, trying to cover up the things that I charged him with; and not only that but the committee sends down to Jackson and brings his clerk here, by way of cumulative evidence, further to cover up the things that I charged, because the committee knows, and Senators will know when I get through discussing the record in the case, that if he is guilty of the things I have charged, then he is not entitled to this promotion; he is unfit for this service; he is not qualified to sit on a reviewing court in this country. All that I have been asking is that the committee subpena the list of witnesses that I will give them and let me bring them here and prove my case, and then let the Senate, the judges, the final arbiters in this important matter, say whether I have established facts that will justify the Senate in refusing to consent to the promotion of this man.

I wish to impress upon the Members of the Senate that a very grave responsibility rests upon those in authority in this Government to protect the helpless and the defenseless of our country. I understand that since I have been here the Senate has had a committee, which is now active, investigating receiverships and bankruptcy cases and the way

in which property of individuals is being handled by the courts of the country. I picked up a Washington newspaper from which I wish to read the headlines of an article preparatory to the introduction of some of the matters which I want to call to the attention of the Senate in regard to the action of Judge Holmes and his record:

Many receiverships held to be "legal rackets."
Investors cheated in reorganizations; creditors lose, too.
Property destroyed and savings looted "with due process of law" probes show.

Some people think it is all right to get the other fellow's money if you can get it "by due process of law", and that is the way great rackets are being carried on in this country—rackets in bankruptcy proceedings, rackets in the liquidation of banks, rackets here, there, and everywhere in re-reorganization of businesses.

I quote from the newspaper article:

Property rights may be sacred in the United States under most circumstances, but Congress has found an exception to the rule.

Bankruptcy, receivership, and reorganization proceedings are being used to destroy property and loot the savings of the thrifty, special Senate and House committees have reported after several years' investigation.

These practices do not violate the Constitution, for the looting is done "with due process of law." Federal judges appoint receivers and trustees for reorganization and have the last say about the things these appointees do and the fees they receive.

I want to call attention in a few moments to the conduct of this man, Judge Holmes, who has the last say; his is the last word; he is the last hope of the defenseless and helpless depositors in my State when receivers are appointed by the Comptroller of the Currency to liquidate national banks in the State. Again quoting from this newspaper:

When a concern goes into bankruptcy or starts reorganization proceedings under section 77B of the Bankruptcy Act, investors in bonds are lucky if they get a few cents on the dollar for the money they put in.

Stockholders, almost invariably, get nothing.

But the receivers, trustees, bondholders' committee, and the attorneys who represent them get fees running into the hundreds of thousands of dollars in individual cases.

A House investigating committee used the word "despicable" in describing prevailing practices.

A Senate committee used the word "unconscionable."

Since the investigations began a number of Federal judges have expressed equal indignation. Judge Slick, of Indiana, for instance, described one reorganization proceeding as having "all the earmarks of a mad scramble for advantage at grossly exaggerated expenses which the court is now asked to burden upon the debtor."

Some judges have done nothing toward cleaning up bankruptcy and reorganization rackets in their districts.

My contention is that we have a judge here who is engaged in the liquidation of the banks and who has been as reckless as any receiver ever dared to be.

I ask permission to insert the entire article from which I have read in the RECORD.

The PRESIDING OFFICER. Without objection, the permission is granted.

The article referred to, in its entirety, is as follows:

[From the Washington Daily News of Mar. 16, 1936]

MANY RECEIVERSHIPS HELD TO BE "LEGAL" RACKETS—INVESTIGATORS CHEATED IN REORGANIZATIONS; CREDITORS LOSE, TOO—PROPERTY DESTROYED AND SAVINGS LOOTED "WITH DUE PROCESS OF LAW", PROBES SHOW

By Ruth Finney

Property rights may be sacred in the United States under most circumstances, but Congress has found an exception to the rule.

Bankruptcy, receivership, and reorganization proceedings are being used to destroy property and to loot the savings of the thrifty, special Senate and House committees have reported after several years' investigation.

These practices do not violate the Constitution, for the looting is done "with due process of law." Federal judges appoint receivers and trustees for reorganization and have the last say about the things these appointees do and the fees they receive.

INVESTORS CHEATED

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ONE INSTANCE

Here are a few stories to illustrate what the committees found. In the Richfield oil receivership in southern California, no creditor had received any part of his claim when the receivership was 32 months old. The book value of assets during that time showed a shrinkage from $130,000,000 to $41,949,000. A subsequent appraisal disclosed assets of $23,821,000. First-mortgage bonds of $35,000,000 were outstanding against them. Six millions in interest was in default.

The receiver had piled up an operating loss of $10,594,210. But during that time the receiver, his attorneys, auditors, and appraisers had received fees, on account, of $1,500,000.

In another case, the Senate committee says, bankruptcy proceedings were instituted apparently "to relieve the corporation involved from obligations the validity of which could not be questioned. * * *

"Lessors looked on helplessly and saw their obligations made void and of no effect. Holders of preferred stock were denied that security of investment which they had been led to believe they had safeguarded, and made to suffer losses they could ill afford to bear * * * in some instances the loss of their entire life savings.

"These proceedings which brought about such results * * * were instituted by men who were unscrupulous, aided by attorneys who, to our minds, had little, if any, regard for their obligations of citizenship, much less for the canons of legal ethics, and were prosecuted with the full knowledge and at least the tacit acquiescence of the judge whose duty it was to pass judgment upon the merits of the objects sought to be obtained.

"In this particular case through the device of holding companies * * * and by the forced sale of the bankrupt estate in its entirety the former owners have again come into possession of all the assets * * * though relieved of real estate leases which the interests formerly in control considered onerous or disadvantageous, and freed of the obligation of accounting to the holders of $6,000,000 of their preferred stock which has literally been wiped out."

In another case the Senate committee found that $4.97½ was paid in fees for every dollar paid to general creditors.

Mr. BILBO. Mr. President, I have made a charge against Judge Holmes as the reviewing judge, as the approving judge, as the last hope in the liquidation of one bank especially. There are other banks, there are other cases that have been brought to my attention; but Senators must understand the handicap under which I am operating and trying to bring to them the real inside facts of this man's judicial record. The lawyers in Mississippi know him; they know his temperament; they know what he will do, and they do not dare open their mouths. They could not come here to testify. If they did, they would have to pack up their books and get out of his court. They know that, and I have not dared to quote them, but they have talked to me privately.

I wish now to bring to the attention of the Senate the case of the liquidation of one bank, the First National Bank of Gulfport, Miss. I have here from the Comptroller of the Treasury a statement of the condition of the bank. This bank at the date of its suspension had assets of $4,002,716; the total assets to be accounted for in the liquidation of the bank were $4,665,000; and here is the alarming statement that out of all those assets of the bank the unsecured liabilities at the date of suspension were $2,263,791.81. That was the bank that went to the bow-wows down in Gulfport, in the southern district of Mississippi, and when that bank failed the Comptroller of the Currency appointed a receiver by the name of A. F. Rawlings.

When I made these charges about the way in which he had approved the liquidation at the instance of the receiver, Judge Holmes was brought here to explain. Yes; but the committee goes to the office of the Comptroller of the Currency and brings one of the deputies before the committee to try to explain for the benefit of Judge Holmes. The committee did not wait until I established what I believed to be fraudulent transactions in the liquidation of this bank, fraudulent deals that the judge has approved, fraudulent transactions and deals about which he could have known and should have known and about which it was his duty

and responsibility to know; but the committee, out of the bigness of its heart, and evidently for the purpose of trying to save the judge, themselves go up and get the deputy from the office of the Comptroller General and bring him down to explain that the judge had no responsibility in the matter; that although he had the last say, and he approved all these transactions and deals, what he did was merely a perfunctory act, a matter-of-course affair. However, the man the committee brought down from the office of the Comptroller of the Currency, Mr. Lyons, said there are certain settlements and transactions in these bank liquidations that stand out "like a sore thumb in the community", and about which the judge himself should know something and should take steps to investigate, and among these is the disposition of real estate that the depositors can see and the judge can see. It was the disposition of the bank buildings and fixtures at Gulfport that I charged was one of the cases that did not look right on the surface. It looked as if someone had feathered his nest; and I wanted to bring to Washington at least the chairman of the depositors' committee that represented 6,000 depositors in the city of Gulfport.

Does anyone see anything wrong in hearing the men who were desirous of representing the depositors' interests in the liquidation of the bank when they charge that something is "rotten in Denmark" in that liquidation? Does anyone see why any committee of the Senate should object to the chairman of the depositors' committee coming to Washington to tell the committee what had taken place, so the committee could find out whether the judge has been guilty of dereliction in his duties and functions as a judge?

Oh, no; instead of bringing the representatives of the depositors' committee for that purpose, they bring the judge. What would Senators think if they should walk into a court anywhere in this country and the grand jury should bring in an indictment charging John Doe with murder or arson or burglary or some other heinous crime, and the court sitting on the bench should dismiss all the State's witnesses, the prosecuting witnesses, and say, "I do not want to hear you; you cannot testify in my court; Mr. Defendant, you are charged with arson, murder, burglary, or something else; take the stand; here is the indictment; explain it to the jury"?

That is exactly what the subcommittee did in this case. I made several indictments, indictments that ought to be investigated, indictments which they thought enough of to cause them to bring the judge here instead of letting me bring the witnesses. They put him on the stand, and said, "Judge Holmes, this man BILBO charges you with fraudulent transactions in Gulfport in the liquidation of a bank there, and charges that you approved some transactions because of which the depositors claim they have been defrauded. Please explain it for the benefit of the Senate of the United States. BILBO has charged you with other things. Explain them to the committee for the benefit of the United States Senate."

A mere alleging is not proof. I appreciate that fact. I might charge Judge Holmes with murder, or burglary, or arson, or theft, or anything else under the sun in the category of crime, but the Senate would have no right to reject his nomination merely because I so charged him. That would not constitute proof. All I have asked the committee to do is to let me bring my witnesses and prove what I have charged. If what I have charged can be substantiated, there is not a man on the floor of the Senate who would vote to confirm Judge Holmes, not even my colleague, strong as he is for Judge Holmes. At least I do not believe he would.

Mr. President, I have a telegram from the chairman of the depositors' committee about one of the transactions involved which reads as follows:

GULFPORT, MISS., *March 19, 1936.*

Senator THEODORE BILBO:

Answering your telegram March 7, public records here show First National Bank Building at Thirteenth Street and Twenty-sixth Avenue sold by A. F. Rawlings, receiver First National Bank in Gulfport to Eustis McManus, as trustee, for $3,000 cash, assumption of past-due taxes amounting to $4,000 cash, assumption of past-due taxes amounting to $4,400, and assignment of deposit claims held by McManus in trust amounting to $41,938.44. Thirty-percent dividend had been previously paid on these deposits. Claims probable balance liquidating value such claims 20 percent. Sale was made October 20, 1933. On November 23, 1933, McManus conveyed same property to Hancock County Bank in consideration $1 and other valuable considerations; assessed value of said property in 1933 was $28,000, not including bank furnishings. Included in the sale was all of the banking-house furnishing furniture, including vault, time lock, and safety deposit boxes. Assessed value of land and buildings, conservative value of furniture, deposit boxes, and time lock on vault approximately $5,000.

DEPOSITORS' COMMITTEE, FIRST NATIONAL BANK OF GULFPORT, MISS.,
J. F. GALLOWAY, *Chairman.*

In Mississippi, when a piece of real estate is assessed, the assessment generally represents from 25 to 40 or 50 percent of it actual value. Here was a piece of property which was assessed at $35,000. When we figure up what this man McManus paid for it, it will be found that the judge, in one of these "sore thumb" cases about which Lyons told the committee, permitted, to the great harm of the depositors, a piece of property to go almost for a song in comparison with its actual value. I personally happen to know about the property.

I have here a copy of the order of the court effecting that sale, and, in conjunction with the telegram which I have just read from the chairman of the depositors' committee, I ask leave to submit that order for the RECORD.

There being no objection, the order was ordered to be printed in the RECORD, as follows:

In the District Court of the United States for the Southern Division of the Southern District of Mississippi in equity. In re First National Bank of Gulfport, in liquidation. No. 413, Equity. Order

There coming on to be heard the petition of A. F. Rawlings, receiver of the First National Bank of Gulfport, in liquidation, for leave and authority to sell to Eustis McManus, the building commonly known as First National Bank of Gulfport Building, and certain equipment therein, specifically described in said petition, upon the terms and conditions outlined in said petition, and the court having considered said petition, and finding it to the best interest of petitioner's trust to make said sale upon the terms outlined in the petition, and it further appearing that the same has been authorized by the Comptroller of the Currency of the United States, it is therefore

Ordered, adjudged, and decreed that A. F. Rawlings, receiver of the First National Bank of Gulfport, be, and he is hereby, authorized and empowered to convey by receiver's deed, without warranty of any kind, to Eustis McManus, the following-described real property, with improvements thereon, situated in city of Gulfport, Harrison County, Miss., to wit:

Thirty-five feet off the east end of lots 9 to 12, inclusive, and the south 11 feet off lot 8, block 177, of the official map of original Gulfport, Harrison County, Miss., as per map or plat thereof on file in the office of the chancery clerk of Harrison County, Miss., and the following-described personal property or equipment, situated in said building, to wit:

Six grill cages—counters in same; one standing double desk.

Two counters—one to right and one to left of row of cages.

In vault—door built by Diebold Safe & Lock Co., Canton, Ohio: 1 money safe (steel) built by Hibbard-Rodman-Ely Safe Co., New York; 1 steel cabinet, various size lockboxes, numbered 1 to 14, inclusive; 1 burglar-alarm system (McClintock Co.), model no. 30.

In vault, over door marked "Mutual Auto Sales Co.":1 section storage cabinets (4) and roller shelves, with row of 19 document files above same; 1 section letter drawers (8—1 missing) and roller shelves, with row of 15 document files (1 missing) above same; 1 section of 15 document files; 1 section of 19 document files; 1 section of 12 roller shelves.

In vault, made by Herring-Hall-Marvin Safe Co., Hamilton, Ohio: 1 battery safe-deposit boxes, nos. 438 to 769, inclusive (332 boxes); 1 battery safe-deposit boxes, nos. 101 to 428, inclusive (328 boxes).

Grill door leading to vault.

2 customers' booths.

Upon payment to said receiver of the sum of $3,000 in cash, the assignment and delivery to said receiver of receiver's certificates nos. 1673, 1674, and 3505, in the total sum of $41,938.44, issued by receiver of First National Bank in Gulfport, upon which total dividends of 30 percent have been paid, and the assumption by said Eustis McManus of all delinquent and unpaid taxes, State, city, and county, upon said property, and special improvement taxes upon said property and the agreement by said Eustis McManus to pay all taxes on said property for the year 1933 and thereafter.

Ordered, adjudged, and decreed in vacation, at Yazoo City, Miss., this 20th day of October 1933.

E. R. HOLMES, *Judge.*

Entered in vacation order book no. 2 at pages 197–198.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

I, B. L. Todd, Jr., clerk of the United States district court for said district, do hereby certify that the foregoing page and one-half contain a full, true, and correct copy of the original thereof now among the records of said cause in said court, in my office at Biloxi, Miss., in said district.

Witness my hand and the seal of said district court, at Biloxi, Miss., this 10th day of August 1935.

B. L. TODD, Jr., *Clerk.*
By GEO. P. MONEY,
Deputy Clerk at Biloxi.

Mr. BILBO. The First National Bank of Gulfport numbered among its stockholders and creditors several people who are rated as millionaires. That is another one of the "sore-thumb" propositions of which Judge Holmes should have taken notice. I introduce for the RECORD a petition of the receiver for an order of the court, in which one of these very wealthy people was permitted to get away with not paying his just share of the obligations due the depositors.

There being no objection, the petition was ordered to be printed in the RECORD, as follows:

In the District Court of the United States for the Southern Division of the Southern District of Mississippi. In the matter of First National Bank in Gulfport, in liquidation First National Bank of Gulfport, in liquidation. No. 439; equity

Petition of A. F. Rawlings, receiver of First National Bank in Gulfport and receiver of First National Bank of Gulfport

Your petitioner would respectfully show unto the court that on, to wit, December 3, 1931, he was appointed receiver of the First National Bank in Gulfport, in liquidation, a national banking corporation, by the Comptroller of the Currency of the United States; that on, to wit, August 9, 1932, petitioner was appointed receiver of the First National Bank of Gulfport, in liquidation, a national banking corporation, by the Comptroller of the Currency of the United States; that he immediately qualified, and has since the date of his respective appointments, and is now, proceeding with his duties in the liquidation of the affairs of said banking institutions in pursuance of his appointments.

Petitioner would further respectfully show unto the court that among the stockholders of the First National Bank in Gulfport and of the First National Bank of Gulfport, at the time said banks closed and were placed in liquidation by the Comptroller of the Currency, were the following: Mrs. H. S. Weston, owning stock in the First National Bank in Gulfport of the par value of $8,000; and the estate of H. S. Weston, deceased, owning stock in the First National Bank of Gulfport of the par value of $25,500.

That after the appointment of petitioner as receiver, respectively, of both of said banks, the Comptroller of the Currency of the United States duly made assessments against said stockholders of both of said banks for the par value of said stock, and in the amounts as hereinabove set forth; that is to say, $8,000 against Mrs. H. S. Weston and $25,500 against the estate of H. S. Weston, deceased. That said stock assessments were not paid, and petitioner, pursuant to instructions from the Comptroller of the Currency of the United States, instituted suits in the United States District Court for the Southern Division of the Southern District of Mississippi, at Biloxi, seeking to recover of and from said Mrs. H. S. Weston, and also Mrs. H. S. Weston as executrix of the estate of H. S. Weston, deceased, the full amount of the par value of said stock, as hereinabove shown, and said suits are now on file and pending in this honorable court.

That petitioner has made diligent inquiry into the affairs and the solvency of the said Mrs. H. S. Weston, and also of the estate of H. S. Weston, deceased. Petitioner finds that the estate of H. S. Weston, deceased, is involved in litigation involving large amounts, and that lis pendens notices have been placed on practically all of the property of said estate in suits by which it is sought to subject the property of said estate to large money demands. That there is a serious question whether petitioner would be able to realize by execution the amount of the said judgments which might be rendered against the estate of H. S. Weston, deceased, on account of said stock assessment and liability aforesaid. That, therefore, the ability of petitioner to collect the full amount of said stock liability against the estate of H. S. Weston, deceased, is doubtful. That the value of said estate has greatly diminished in the last 2 or 3 years.

That petitioner has received from Mrs. H. S. Weston and from Mrs. H. S. Weston, executrix of the estate of H. S. Weston, deceased, an offer of $29,500 in cash in full compromise and settlement of the above-mentioned stock-assessment liability; that is to say, the assessment against Mrs. H. S. Weston for $8,000 and the assessment against the estate of H. S. Weston for $25,500, said payment to be in full on account of her individual liability and also the liability of said estate.

That petitioner, after careful investigation, has come to the conclusion and avers that he believes it to the best interest of his trust to accept said offer of $29,500 in cash in settlement and cancelation of said stock liability. That petitioner reported his conclusions and findings to the Comptroller of the Currency, and the Comptroller of the Currency has by letter addressed to petitioner authorized petitioner, with the consent of this honorable court, to accept the sum of $29,500 in full settlement of said stock liability, and has authorized petitioner upon payment thereof to dismiss the aforementioned suits pending in this court to enforce said stock-assessment liability, same to be dismissed with prejudice and at the cost of plaintiff.

Wherefore, petitioner prays for an order authorizing, directing, and empowering him to accept from Mrs. H. S. Weston and Mrs. H. S. Weston, as executrix of the estate of H. S. Weston, deceased, the sum of $29,500 in full compromise and settlement of the stock-assessment liability of the said Mrs. H. S. Weston and the estate of H. S. Weston, deceased, and that petitioner be authorized to execute and deliver a full and complete release therefor. That petitioner be further authorized to dismiss the said suits pending against the said Mrs. H. S. Weston and the estate of H. S. Weston, deceased, with prejudice, at the cost of the plaintiff.

And petitioner will ever pray.

A. F. RAWLINGS,
Petitioner.
FORD, WHITE, & MORSE,
Attorneys for Petitioner.

STATE OF MISSISSIPPI,
County of Harrison:

Personally appeared before the undersigned authority in and for said county and State, A. F. Rawlings, receiver of the First National Bank of Gulfport, and A. F. Rawlings, receiver of the First National Bank in Gulfport, who, first being duly sworn, deposes and says that the facts, matters, and things set forth in the foregoing petition are true and correct as therein stated to the best of his knowledge and belief.

A. F. RAWLING,
Receiver of First National Bank of Gulfport.

Sworn to and subscribed before me this 27th day of February 1933.

[SEAL] MAZIE D. SIMPSON,
Notary Public.

In re First National Bank in Gulfport, in liquidation; First National Bank of Gulfport, in liquidation. No. 439, equity

Order

There coming on to be heard the petition of A. F. Rawlings, receiver of the First National Bank in Gulfport, in liquidation, and A. F. Rawlings, receiver of the First National Bank of Gulfport, in liquidation, for leave and authority to compromise and settle with Mrs. H. S. Weston and the estate of H. S. Weston, deceased, on account of the stock-assessment liability of said Mrs. Weston and said estate in said national banks, and the court having considered said matters, it is therefore

Ordered, adjudged and decreed that A. F. Rawlings, receiver of the First National Bank in Gulfport, in liquidation, and A. F. Rawlings, receiver of the First National Bank of Gulfport, in liquidation, be, and he is hereby, authorized and empowered to compromise and settle the stock-assessment liability of said Mrs. H. S. Weston, in the sum of $8,000, in the First National Bank in Gulfport, and the stock-assessment liability of the estate of H. S. Weston, deceased, in the First National Bank of Gulfport, in the sum of $25,500, at and for the sum of $29,500 in cash; that upon payment thereof said receiver be, and he is hereby authorized, to execute and deliver a full and complete release, releasing the said Mrs. H. S. Weston and said estate of H. S. Weston, deceased, from any and all liability on account of said stock assessments.

The said receiver is further authorized to dismiss with prejudice the suits pending in this court against the said Mrs. H. S. Weston and the estate of H. S. Weston, deceased, to recover the stock liabilities, said dismissal to be with prejudice and at the cost of plaintiff.

The court finds that it is to the best interest of petitioner's said trust to enter into and effect said compromise agreement as hereinabove set forth.

Ordered, adjudged, and decreed this 31st day of May 1933, in vacation, at Yazoo City, Miss.

E. R. HOLMES, *Judge.*

Vacation order book no. 2, United States District Court, Biloxi, page 152.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

I, B. L. Todd, Jr., clerk of the United States District Court in and for the Southern District of Mississippi, do hereby certify that the annexed and foregoing is a true and full copy of the original petition, equity docket no. 439, with the order thereon dated May 31, 1933, now remaining among the records of the said court in my office in Biloxi, Miss.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the aforesaid court at Biloxi, Miss., this 14th day of February, A. D. 1936.

[SEAL] B. L. TODD, Jr.,
Clerk.
By GEO. P. MONEY,
Deputy Clerk.

Mr. BILBO. I now wish to call attention to a petition of the receiver of the First National Bank in Gulfport for settlement of the liability of J. W. Somerville in the sum of $16,363.10 for the sum of $969.93. The order of Judge Holmes is attached to the petition, and I ask that the petition and order may be printed in the RECORD.

There being no objection, the petition and order were ordered to be printed in the RECORD, as follows:

In the District Court of the United States for the Southern Division of the Southern District of Mississippi. In re First National Bank in Gulfport, in liquidation. No. 387, equity

Petition of A. F. Rawlings, receiver of First National Bank in Gulfport

To the Honorable E. R. HOLMES, *Judge:*

Your petitioner would respectfully show unto the court that he was, on December 3, 1931, appointed receiver of the First National Bank in Gulfport, a national banking corporation, by the Comptroller of the Currency of the United States, and that petitioner has, since said time and is now, proceeding with his duties in the

liquidation of the affairs of said banking institution, pursuant to said appointment.

Petitioner would further show unto the court that there came into the possession of said receiver, pursuant to his appointment as aforesaid, a note of J. W. Somerville, in the sum of $16,363.10, the same being secured by a deed of trust executed by J. W. Somerville and Gertrude A. Somerville, his wife, in favor of the First National Bank of Gulfport, E. M. Murphy, Jr., trustee, and now owned by petitioner as receiver of First National Bank in Gulfport, which deed of trust is recorded in book 65, pages 557–560 of Record of Mortgages and Deeds of Trusts on Land in Harrison County, Miss., the same being a second deed of trust, there being two prior deeds of trust in favor of Lamar Life Insurance Co., L. Barrett Jones, trustee, the same being recorded in book 34, pages 34–36, and book 80, pages 319–323, respectively, Record of Mortgages and Deeds of Trust on Land in Harrison County, Miss., the same having been given to secure an indebtedness to the Lamar Life Insurance Co., the property covered by all of said deeds of trust being lot 13, block 2, and lot 13, block 5, Soria City addition to the city of Gulfport, Harrison County, Miss., it being the homestead of the makers of said deeds of trust.

That there was also pledged as collateral security to secure the indebtedness to the said Lamar Life Insurance Co. a policy of insurance upon the life of J. W. Somerville, the policy being no. 30536.

That the indebtedness to the Lamar Life Insurance Co. after the appointment of petitioner, as aforesaid, amounted to $3,141.76, which sum petitioner, under instructions of the Comptroller of the Currency and subject to the approval of this honorable court, paid to the Lamar Life Insurance Co., in order to protect petitioner's second deed of trust, with the understanding that the said J. W. Somerville and Gertrude A. Somerville would convey by warranty deed the said property to petitioner, and petitioner, in turn, was to cancel the said indebtedness of J. W. Somerville secured by said deed of trust, and petitioner here shows to the court that the said J. W. Somerville is utterly insolvent and would be unable to respond to a judgment in any sum whatsoever and is unable to make any payment on account of said indebtedness.

That the said J. W. Somerville since petitioner has paid to the Lamar Life Insurance Co. the amount of said Somerville's indebtedness to said Lamar Life Insurance Co., has obtained a loan on his said policy no. 30536 in the sum of $969.93, being the full loan value of said policy, and has turned over and delivered the said sum to petitioner, to apply on his said indebtedness aforesaid.

That as aforesaid, petitioner avers that this arrangement has been approved by the Comptroller of the Currency, and petitioner now prays for an order of this court ratifying and approving his action in the premises and authorizing and empowering petitioner to cancel the said indebtedness of J. W. Somerville and Gertrude A. Somerville to his said trust in the sum aforesaid, in consideration of the execution and delivery of said deed to the real property hereinabove described, and said payment in cash, the proceeds of said loan on said insurance policy as above stated.

II

Petitioner further respectfully shows unto the court that he has received an offer from Judge D. M. Russell, of Gulfport, Miss., to purchase the property hereinabove described, formerly owned by said Somervilles, from petitioner's trust upon the following basis: That is to say, at the time of the closing of the First National Bank in Gulfport, the said D. M. Russell had on deposit to the credit of his personal accounts the sum of $5,512.63, upon which a dividend has been declared in the sum of 18 percent, amounting to $992.27; that the dividend checks aforesaid have not been delivered, and are still in the possession of petitioner. That due proof has been made of said claims by said D. M. Russell within the time required by law, and he is entitled to the said dividend checks for $992.27 and such future dividends as may be declared by petitioner's trust on said deposit. That said offer contemplates that the said proof of claim be canceled and the right of the said D. M. Russell to said dividend checks of $992.27 be waived and said checks canceled, and that in addition the said purchaser will pay to petitioner's trust the sum of $2,181.84 in cash. That by this method petitioner's trust will receive in the neighborhood of something between $5,500 and $6,000 for said property, which, in the opinion of the petitioner, is a fair value for the same at this time on account of the fact there is no market for real estate and taxes upon the same are burdensome. That this is the best offer petitioner has been able to obtain, and he believes it to the best interest of his trust that said sale be made to said D. M. Russell, and receiver's deed, without warranty, be executed and delivered to him upon payment of said $2,181.84 in cash, cancelation and surrender of said certificates of proofs of claim aforesaid and said dividend check hereinabove set forth, and the purchaser to assume and pay all taxes of every kind upon said property for the year 1933 and thereafter.

That by letter of the Comptroller of the Currency, dated April 20, 1933, the Comptroller of the Currency has authorized the said transaction as hereinabove set forth, and sale of said property upon the terms hereinabove outlined, subject to the approval of this honorable court.

III

Petitioner would further show unto the court that since his appointment, as aforesaid, he has acquired title by foreclosure of the following-described real property, situated in Harrison County, Miss., to wit:

One lot of land beginning at the northeast corner of the northeast quarter of southeast quarter of section 21, township 7 south, range 11 west, Harrison County, Miss.; running thence 400 feet west; running thence south 725 feet to the center of Turkey Creek; running thence in a northeasterly direction along the center of Turkey Creek to the section line; running thence north along the said section line to the point of beginning, being formerly the property of J. A. McDevitt. That the above-mentioned property is improved, having thereon a small house of little value, and is located approximately 5 miles north of Gulfport, Harrison County, Miss.; and there is little, if any, demand for such property.

That petitioner does not consider the property worth more than $200, but has obtained an offer of $250 cash therefor, said offer being made by Mrs. Georgie B. Havard. That approximately the sum of $30.51 will have to be paid by petitioner to redeem said property from tax sale for the taxes for the year 1932. Petitioner believes it to be best interest of his trust that said cash offer of $250 for a receiver's deed, without warranty, to said property above described be accepted, and that out of said sum the petitioner be authorized to expend approximately $30.51 to redeem said property from tax sale aforesaid.

That by letter of the Comptroller of the Currency dated April 3, 1933, petitioner is authorized, subject to the confirmation of this honorable court, to make said sale.

Wherefore, petitioner prays for an order authorizing him to execute a receiver's deed, without warranty, to Mrs. Georgie B. Havard for $250 cash, for said property, and to expend $30.51 for redemption of said property from tax sale for the taxes for the year 1932.

Petitioner further shows to this honorable court that on or about the 20th day of December 1932 petitioner in this cause presented to the court in vacation a petition with reference to the settlement of the liability of certain parties to petitioner's trust, among them being Mrs. Ruby A. Price. That in said petition it was recited that said Mrs. Ruby A. Price owned stock in the First National Bank in Gulfport in the amount of $900. That on or about the 20th day of December 1932, in vacation, the court entered a decree authorizing the settlement with the said Mrs. Ruby A. Price et al. Copies of said petition and order are attached hereto as exhibits A and B, respectively, and made a part of this petition. That through an error, the said petition and said decree recites that the said stock was owned by said Mrs. Ruby A. Price in the First National Bank in Gulfport, when in truth and in fact the said stock was owned by said Mrs. Ruby A. Price in the First National Bank of Gulfport; that said petition and the said decree should be corrected in all of its recitals where said stock is designated as being in First National Bank in Gulfport to be First National Bank of Gulfport, and petitioner prays an order directing the clerk of this court to make said corrections in said petition and decree by changing the word "in" to "of" wherever reference is made to the said stock of Mrs. Ruby A. Price in the said sum of $900.

Wherefore, petitioner prays for an order granting the relief hereinabove prayed for.

A. F. RAWLINGS,
Receiver of First National Bank in Gulfport.

FORD, WHITE & MORSE,
Attorneys for Receiver.

STATE OF MISSISSIPPI,
County of Harrison:

Personally appeared before the undersigned authority in and for said county and State, A. F. Rawlings, receiver of the First National Bank in Gulfport, duly appointed by the Comptroller of the Currency of the United States, who states on oath that the facts, matters, and things set forth in the foregoing petition are true and correct as therein stated to the best of his knowledge and belief.

A. F. RAWLINGS.

Sworn to and subscribed before me this 28th day of April 1933.

MAZIE D. SIMPSON, *Notary Public.*

EXHIBIT A

In the District Court of the United States for the Southern Division of the Southern District of Mississippi. In re First National Bank in Gulfport, in liquidation. No. 387, equity

Petition of A. F. Rawlings, receiver, for authority to compromise and settle certain claim

To the Honorable E. R. HOLMES, *Judge:*

Your petitioner would respectfully show unto the court that he was, on December 3, 1931, appointed receiver of the First National Bank in Gulfport, a national banking corporation, by the Comptroller of the Currency of the United States, and that petitioner has, since said time, and is now, proceeding with his duties in the liquidation of the affairs of said banking institution, pursuant to said appointment.

Petitioner would further show that among the assets of the First National Bank in Gulfport, which came into the hands of petitioner, as such receiver, is a note for $20,000 dated November 23, 1930, due on or before 1 year after date, payable to First National Bank of Gulfport, or bearer, which note was made and executed by Ruby A. Price. That said note bears interest at the rate of 6 percent per annum from date until paid. That there was placed with said bank as collateral security for the payment of said above-mentioned note, a note of E. S. Taylor, in the sum of $20,500, dated November 21, 1928, due on or before 1 year after date, payable to the order of Ruby A. Price, which note bears interest at the rate of 6 percent per annum from date, and upon which interest has been paid to November 21, 1930. That the said last-mentioned note is endorsed by James L. Berry, I. B.

Rau, and J. A. Parker. That said last-mentioned note is secured by a deed of trust executed by E. S. Taylor to Ruby A. Price, beneficiary, J. L. Taylor, trustee, said deed of trust being recorded in book 69, pages 233–234, Record of Mortgages and Deeds of Trust on Land in Harrison County, Miss., on file in the office of the chancery clerk of said county and State, and said deed of trust covers the following described property in the county of Harrison, State of Mississippi, to wit:

The east half of the northeast quarter of section 10, township 7, south of range 10 west, and

The northwest quarter of the northwest quarter and in the northeast quarter of the northwest quarter, lying west of Taylor's Lake and Parker Creek in section 11, township 7, south of range 10 west.

That said land hereinabove described comprises a tract of 121½ acres and is located near the Back Bay of Biloxi.

That the said James L. Berry, I. B. Rau, and J. A. Parker and E. S. Taylor would be utterly unable to respond to a judgment in any substantial sum whatsoever in case same was obtained against them, they having no visible property subject to execution. That the said I. B. Rau has, since the execution of said note, gone into bankruptcy. That the liabilities of said J. L. Berry and J. A. Parker are extensive and that the said E. S. Taylor is employed upon a salary, a large part of which would be exempt from execution.

That the said Mrs. Ruby A. Price is a stenographer and is of very limited means, but has some property which she acquired from her deceased husband.

That it is contemplated by petitioner, with the consent of this honorable court, and pursuant to authority of the Comptroller of the Currency, contained in letter dated November 30, 1932, to accept deed to the said 121½-acre tract of land hereinabove described, after proper foreclosure thereof, by the trustee therein named. That the said Mrs. Ruby A. Price shall convey to petitioner certain improved property, described as lot 11 of block 162, original Gulfport, as per map or plat thereof on file in the office of the chancery clerk of Harrison County, Miss., which property has an estimated value of $8,000 and also transfer and deliver to petitioner seven promissory notes aggregating $4,900, the property of the said Mrs. Ruby A. Price, executed by Helga Dalsoren, and secured by a first mortgage on what is known as the Stokoe Apartments in the city of Gulfport, and which property has an estimated value of $10,000. That the said Mrs. Ruby A. Price is also to assign to petitioner receiver's certificates issued to her by his trust, aggregating $2,443.01, and to also assign to petitioner the credit balance of $128.05 which she had in said First National Bank in Gulfport at the time same closed, in consideration of the cancelation of the said two notes hereinabove set forth, and full settlement of the stock assessment liability of Mrs. Ruby A. Price in said First National Bank in Gulfport in the amount of $900.

That the said note first mentioned, executed by Mrs. Ruby A. Price, is now held by Union Indemnity Co., the same having been pledged to said Union Indemnity Co. by the First National Bank in Gulfport, to indemnify the said Union Indemnity Co. against loss on account of the execution by said Union Indemnity Co. of the bond of the said First National Bank in Gulfport, as county depository for Harrison County, Miss., and the city of Gulfport. That that said Union Indemnity Co. is agreeable to said settlement and compromise hereinabove set forth.

That as aforesaid petitioner has been authorized by the Comptroller of the Currency, by letter dated November 30, 1932, to effect said settlement. Petitioner believes it to the best interest of his trust to effect and carry out the compromise hereinabove set forth, and prays the court for an order authorizing him so to do.

As in duty bound, etc.

FORD, WHITE & MORSE,
Attorneys for Petitioner.

STATE OF MISSISSIPPI,
County of Harrison:

Personally appeared before the undersigned authority in and for said county and State, A. F. Rawlings, who, first being duly sworn, deposes and says that he is receiver of the First National Bank in Gulfport, in liquidation; that the facts, matters, and things set forth in the foregoing petition are true and correct as therein stated.

A. F. RAWLINGS,

Sworn to and subscribed before me this ———— day of December 1932.

MAZIE D. SIMPSON, *Notary Public.*

EXHIBIT B

In the District Court of the United States for the Southern Division of the Southern District of Mississippi. In re First National Bank in Gulfport, in liquidation. No. 387, equity

DECREE

There coming on to be heard the petition of A. F. Rawlings, receiver of the First National Bank in Gulfport, for leave and authority to compromise and settle certain claims of petitioner, as receiver of said bank, against Mrs. Ruby A. Price, E. S. Taylor, J. L. Berry, and J. A. Parker, and I. B. Rau, as set forth in said petition, and the court having considered said petition and being of the opinion that it is to the best interest of petitioner's trust to effect said settlement, as set out in said petition and as hereinafter set out, and it appearing that authority so to do has been obtained by petitioner from the Comptroller of the Currency of the United States, it is therefore ordered, adjudged, and decreed:

That the petitioner, A. F. Rawlings, receiver of the First National Bank in Gulfport, be, and he is hereby, authorized in effecting said settlement to accept a deed to the following-described real property situated in Harrison County, Miss., to wit:

East half of northeast quarter of section 10, township 7 south, range 10 west; and northwest quarter of northwest quarter and 1½ acres in northeast quarter of northwest quarter lying west of Taylors Lake and Parker Creek in section 11, township 7 south, range 10 west.

That he is further authorized to accept from Mrs. Ruby A. Price a conveyance to petitioner of lot 11, block 162, original city of Gulfport, as per plat or map thereon filed in the office of the chancery clerk of Harrison County, Miss.; also a transfer and delivery from Mrs. Ruby A. Price to petitioner of seven promissory notes aggregating $4,900, executed by Helga Dalsoren and secured by a first mortgage on what is known as Stokoe Apartments, in city of Gulfport, Harrison County, Miss.; and also assignment by said Mrs. Ruby A. Price to petitioner of receiver's certificate issued by petitioner's trust, aggregating $2,443.01; and assignment by Mrs. Ruby A. Price to said petitioner of the credit balance of $128.05 which she had on deposit in the First National Bank in Gulfport at the time same closed.

Petitioner, in turn, and for said consideration, is to mark canceled and satisfied the note of November 23, 1930, for $20,000 executed by Mrs. Ruby A. Price, and referred to in the petition on file in this cause, and the note of E. S. Taylor for $20,500, dated November 21, 1928, referred to in petition on file in this cause; and in addition the said A. F. Rawlings, receiver, is authorized to cancel and satisfy the stock assessment made by him as receiver of the First National Bank in Gulfport against Mrs. Ruby A. Price in the sum of $900.

Ordered, adjudged, and decreed, in vacation, at Yazoo City, Miss., this 20th day of December 1932.

(Signed) E. R. HOLMES,
Judge.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

I, B. L. Todd, Jr., clerk of the district court of the United States for said district, hereby certify that the foregoing is a true copy of the original thereof now remaining among the records of said district court in my office in Biloxi, Miss., in said district.

Given under my hand and the official seal of said district court at Biloxi, Miss., in said district, on this 23d day of December 1932.

[SEAL] B. L. TODD, Jr.,
Clerk.

By GEO. P. MONEY,
Deputy Clerk.

In re First National Bank of Gulfport, in liquidation. No. 387, equity. Order

There coming to be heard in vacation the petition of A. F. Rawlings, receiver of the First National Bank in Gulfport, for leave and authority to settle and compromise certain indebtedness of J. W. Somerville and Gertrude A. Somerville to petitioner's trust to sell certain property therein described to D. M. Russell, to sell certain property described in said petition to Mrs. Georgie B. Havard, and to correct an error in a decree heretofore rendered in vacation with reference to the stock liability of Mrs. Ruby A. Price in the First National Bank of Gulfport, and the court having considered said petition, and believing it to the best interest of petitioner's trust that the relief prayed for be granted, it is therefore ordered, adjudged, and decreed:

1. That the action of A. F. Rawlings, receiver of the First National Bank in Gulfport, in accepting deed from J. W. Somerville and Gertrude A. Somerville to lot 13, block 2, and lot 13, block 5, Soria City addition to the city of Gulfport, Harrison County, Miss., and also the sum of $969.93, in full settlement of the liability of said parties on account of an indebtedness to petitioner's trust in th sum of $16,363.10, secured by deed of trust recorded in deeds of trust on land in Harrison County, Miss., and also the sum of $969.93 in full settlement of the liability of said parties on account of an indebtedness to petitioner's trust in the sum of $16,363.10, secured by deed of trust recorded in book 65, pages 557–560 of the record of mortgages and deeds of trust on land in Harrison County, Miss., which mortgage covers the property hereinabove just described, in satisfaction of the said indebtedness above described, but no other indebtedness of J. W. Somerville and Gertrude A. Somerville to petitioner's trust, which action of said receiver has been ratified and approved by the Comptroller of Currency of the United States, be and the same is hereby, by this court, ratified and approved.

2. It further appearing that it is to best interest of petitioner's trust that petitioner execute and deliver to Judge D. M. Russell a receiver's deed, without warranty, to the said property hereinabove described as being conveyed by the said J. W. Somerville and Gertrude A. Somerville to petitioner, at and for the sum of $2,181.84 cash, and the further consideration of the cancelation and surrender by the said D. M. Russell of his claim against petitioner, as receiver of the First National Bank in Gulfport, in the sum of $5,512.63, and the further cancelation and delivery of dividend checks in the sum of $992.27, issued by petitioner as such receiver to the said D. M. Russell on account of his claim against said trust, the purchaser to assume all taxes on said property for the year 1933 and thereafter, it is therefore ordered that petitioner be, and he is hereby, authorized to consummate said transaction and deliver said receiver's deed covering said property, as aforesaid, upon compliance with the terms of said sale, as hereinabove set forth, it appearing to the court that said price to be paid in the manner above stated is fair and adequate and is the best price obtainable at this time for said property, it further appearing to the court that the said sale has been ratified and approved by the Comptroller of the Currency of the United States.

3. It further appearing to the court that it is to the best interest of petitioner's trust that he sell to Mrs. Georgie B. Havard that certain property described as follows, to wit: One lot of land beginning at the northeast corner of the northeast quarter of southeast quarter of section 21, township 7 south, range 11 west, Harrison County, Miss., running thence 400 feet, running thence south 725 feet to the center of Turkey Creek, running thence in a northeasterly direction along the center of Turkey Creek to the section line, running thence north along the said section line to the point of beginning, at and for the sum of $250 cash, and that he execute a receiver's deed without warranty to said Mrs. Georgie B. Havard upon payment of said sum; and it further appearing that said sale has been authorized and approved by the Comptroller of the Currency of the United States, it is therefore ordered that petitioner be, and he is hereby, authorized to execute a receiver's deed without warranty to Mrs. Georgie B. Havard upon payment of $250 cash, and that petitioner be authorized to expend the sum of $30.51 to redeem said property from tax sale for the year 1932, it appearing that it is to the best interest of petitioner's trust to make said sale as aforesaid.

4. It further appearing to the court that on the 20th day of December 1932 this court signed an order in vacation with reference to settlement of the stock liability of Mrs. Ruby A. Price in the sum of $900 pursuant to petition duly presented to the court on said date, and that both in said petition and in the decree entered in said cause an error appears in that the same should have recited that the stock was owned by Mrs. Ruby A. Price in the First National Bank of Gulfport rather than in the First National Bank in Gulfport, copies of said petition and said decree entered on the 20th day of December 1932 being filed with the petition to correct said error, and it appearing to the court that said error should be corrected, it is ordered that the clerk of this court be, and he is hereby, directed to change in said original petition and order the word "in" to "of" wherever the same refers in said petition and order to the stock owned by Mrs. Ruby A. Price in the First National Bank in Gulfport in the amount of $900, so that the same shall read that said stock in the sum of $900 was owned by said Mrs. Ruby A. Price in the First National Bank of Gulfport.

Ordered, adjudged, and decreed in vacation at Yazoo City, Miss., this 29th day of April 1933.

E. R. HOLMES, *Judge.*

Vacation order book no. 2, United States District Court, Biloxi, page 118.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

I, B. L. Todd, Jr., clerk of the United States District Court in and for the Southern District of Mississippi, do hereby certify that the annexed and foregoing is a true and full copy of the original petition, equity docket no. 387, with the order thereon dated April 29, 1933, now remaining among the records of the said court in my office at Biloxi, Miss.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the aforesaid court at Biloxi, Miss., this 14th day of February, A. D. 1936.

[SEAL] B. L. TODD, Jr., *Clerk.*
By GEO. P. MONEY, *Deputy Clerk.*

Mr. BILBO. I now come to a case where the president of one of the big banks of New Orleans owed the Gulfport bank. He and his wife together owed the Gulfport bank nearly $8,000. He receives $10,000 a year salary, and yet Judge Holmes approved a settlement releasing this president of a bank in the city of New Orleans, and his wife, a man enjoying a salary of $10,000 a year, letting him off for $2,500, to be paid jointly by the president of the bank himself and his wife in settlement of an obligation in excess of $7,000. These documents are all certified, so there will be no question raised about them. I ask that this petition and order may be inserted in the RECORD.

There being no objection, the petition and order were ordered to be printed in the RECORD, as follows:

In the District Court of the United States for the Southern Division of the Southern District of Mississippi. In re First National Bank in Gulfport, in liquidation. First National Bank of Gulfport, in liquidation. No. 439, equity

Petition of A. F. Rawlings, receiver of First National Bank in Gulfport, and First National Bank of Gulfport, in liquidation

To the Honorable E. R. HOLMES, *Judge:*

Petitioner would respectfully show unto the court that he was by the Comptroller of the Currency of the United States appointed receiver of the First National Bank in Gulfport on December 3, 1931, and receiver of the First National Bank of Gulfport on August 8, 1932. That he is now proceeding to liquidate the affairs of said banking institutions under the directions of the Comptroller of the Currency and the National Banking Act. That said banks are both located in the southern division of the southern district of Mississippi and within the jurisdiction of this honorable court.

Petitioner would further respectfully show unto the court there has come into his hands by virtue of his appointment as receiver of the First National Bank in Gulfport the following notes of J. A. Bandi, to wit:

One note for $997.48.
One note for $1,350.
One note for $725.

Also a note of Mrs. Elizabeth Bandi, wife of J. A. Bandi, for $1,600, which note is endorsed by J. A. Bandi.

That J. A. Bandi is the owner of 40 shares of capital stock of the First National Bank of Gulfport, and Mrs. Elizabeth Bandi is the owner of 48 shares of the capital stock of First National Bank of Gulfport of the par value of $2,200.

That therefore stock assessments have been made by the Comptroller of the Currency against the said J. A. Bandi and Mrs. Elizabeth Bandi as stockholders of the First National Bank of Gulfport for the total of said par value of their stock.

That the said J. A. Bandi is also endorser upon a note held by petitioner, as receiver of the First National Bank in Gulfport, executed by Leo L. Stender, in the sum of $490. That therefore the total joint liability of the said J. A. Bandi and Mrs. Elizabeth Bandi to petitioner's two trusts is the sum of $7,362.48.

That the said J. A. Bandi and Mrs. Elizabeth Bandi are hopelessly insolvent. That they have furnished to petitioner sworn financial statement, which statement indicates their insolvency. That any effort to enforce the said liability would force the said J. A. Bandi and Mrs. Elizabeth Bandi into bankruptcy, in which event the said petitioner's trust would recover nothing whatsoever.

That the said J. A. Bandi and Mrs. Elizabeth Bandi have offered to pay petitioner, as receiver of the said two banks, the sum of $2,500, payable at the rate of $50 per month, in full settlement of their said joint liability, as above set forth, the said sum so received to be prorated between petitioner's two trusts upon the basis of the respective liability of J. A. Bandi and Mrs. Elizabeth Bandi thereto, as hereinabove set forth.

Petitioner believes it to the best interest of his trusts to effect said settlement. That petitioner has been authorized by the Comptroller of the Currency by letter dated January 13, 1933, to enter into and effect said compromise upon obtaining proper order of this honorable court.

Wherefore, petitioner prays that he be authorized and empowered to effect said settlement, and that upon full compliance with the terms thereof by the said J. A. Bandi and Mrs. Elizabeth Bandi that petitioner be authorized to cancel said total indebtedness of the said parties to his trusts in the sum of $5,162.48 and stock liability of the said J. A. Bandi and Elizabeth Bandi in the total sum of $2,200.

A. F. RAWLINGS,
Petitioner, Receiver of First National Bank in Gulfport.
A. F. RAWLINGS,
Petitioner, Receiver of First National Bank of Gulfport.
FORD, WHITE & MORSE,
Attorneys for Petitioner.

STATE OF MISSISSIPPI,
County of Harrison:

Personally appeared before the undersigned authority, in and for said county and State, A. F. Rawlings, receiver of First National Bank of Gulfport, and A. F. Rawlings, receiver of First National Bank in Gulfport, who first being duly sworn, deposes and says the facts, matters, and things set forth in the foregoing petition are true and correct as therein stated.

A. F. RAWLINGS,
Receiver of First National Bank in Gulfport.
A. F. RAWLINGS,
Receiver of First National Bank of Gulfport.

Sworn to and subscribed before me this 2d day of February 1933.

[SEAL] MAZIE D. SIMPSON, *Notary Public.*

In re First National Bank in Gulfport, in liquidation. First National Bank of Gulfport, in liquidation. 439 in equity

There coming on to be heard the petition of A. F. Rawlings, receiver of the First National Bank in Gulfport, in liquidation, and receiver of First National Bank of Gulfport, in liquidation, for leave and authority to compromise and settle certain indebtedness and stock liability of J. A. Bandi and Mrs. Elizabeth Bandi, to petitioner's two trusts, in accordance with the terms and conditions set forth in said petition, and the court having considered said matter, it is ordered, adjudged, and decreed:

That A. F. Rawlings, receiver of First National Bank in Gulfport, and A. F. Rawlings, receiver of First National Bank of Gulfport, be, and he is hereby, authorized and empowered to settle the total indebtedness of J. A. Bandi and Mrs. Elizabeth Bandi to his two trusts in the sum of $5,162.48, and the stock liability of J. A. Bandi and Mrs. Elizabeth Bandi in the First National Bank of Gulfport, in the sum of $2,200, at and for the sum of $2,500, payable at the rate of $50 per month, the court finding it to the best interest of petitioner's two trusts to make said compromise settlement. That upon payment in full of said sum of $2,500 by J. A. Bandi and Mrs. Elizabeth Bandi, that petitioner be and he is hereby authorized to cancel the said indebtedness of J. A. Bandi and Mrs. Elizabeth Bandi to petitioner's two trusts in the sum of $5,162.48 and the stock liability of $2,200, as aforesaid, and to execute a release therefor.

That of the said $2,500, so to be paid, petitioner prorate the same between his two said trusts in the proportion of the indebtedness of J. A. Bandi and Mrs. Elizabeth Bandi to the said trusts, as set forth in said petition.

Ordered, adjudged, and decreed this 7th day of February 1933, in vacation, at Yazoo City, Miss.

E. R. HOLMES, *Judge.*

Vacation order book no. 2, United States District Court, Biloxi, page 108.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

I, B. L. Todd, Jr., Clerk of the United States District Court in and for the Southern District of Mississippi, do hereby certify

that the annexed and foregoing is a true and full copy of the original petition, equity docket no. 439, with the order thereon dated February 7, 1933, now remaining among the records of the said Court in my office in Biloxi, Miss.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid court at Biloxi, Miss., this 14th day of February, A. D. 1936.

[SEAL] B. L. TODD, JR., *Clerk.*
By GEO. P. MONEY, *Deputy Clerk.*

Mr. BILBO. I now submit another petition of the receiver listing stockholders who owned stock in the bank of the par value of almost $334,000, who were released by order of the judge upon the payment of less than 50 percent of their stock liability. That is where the depositors in the Gulfport Bank lost more than 50 percent of what they were entitled to have. I ask that this petition and order may be printed in the RECORD.

There being no objection, the petition and order were ordered to be printed in the RECORD, as follows:

In the District Court of the United States for the Southern Division of the Southern District of Mississippi. In re First National Bank in Gulfport, in liquidation. No. 387, equity

Petition of A. F. Rawlings, receiver

To the Honorable E. R. HOLMES, *Judge:*

Your petitioner would respectfully show unto the court that he was, on December 3, 1931, appointed receiver of the First National Bank in Gulfport, a national banking corporation, by the Comptroller of the Currency of the United States, and that petitioner has, since said time, and is now, proceeding with his duties in the liquidation of the affairs of the said banking institution, pursuance to said appointment.

Petitioner would further respectfully show unto the court that among the stockholders of the First National Bank in Gulfport, at the time the same closed, and was placed in liquidation by the Comptroller of the Currency, were the following stockholders, who owned stock of the par value in said bank set opposite their respective names, to wit:

Annie D. Bond	$2,400.00
A. M. Cowan	2,000.00
R. G. Cox	1,200.00
A. F. Dantzler	20,000.00
G. B. Dantzler	24,000.00
L. N. Dantzler	4,800.00
Bessie H. Dantzler	2,400.00
H. M. Rollins	800.00
A. E. Fant	9,850.00
R. H. Hardtner	1,600.00
Hanun Gardner	3,625.00
Mrs. Maude Winchester Gardner	1,250.00
J. J. Harry	100,000.00
Mrs. F. E. Havard	2,000.00
W. B. Herring	23,450.00
Malcolm McEachern	550.00
Grace Jones Stewart	115,200.00
W. T. Stewart	1,000.00
W. G. Field	4,000.00
Paul Jenkins	1,600.00
B. G. Lake	4,000.00
Morris Lake	1,600.00
J S. Walker	2,400.00
W. K. Walker	4,000.00

That after appointment of petitioner as receiver aforesaid, the Comptroller of the Currency of the United States duly made assessment against said stockholders for the par value of said stock in the amounts as hereinabove shown. That said stock assessments were not paid, and petitioner, pursuant to instructions of the Comptroller of the Currency, instituted suits in the United States District Court for the Southern Division of the Southern District of Mississippi, at Biloxi, seeking to recover of and from said stockholders the full amount of the par value of said stock, as hereinabove shown, and said suits are now on file and pending in said court.

That of said total amount of stock so held by the above-named stockholders in the sum of $333,725, petitioner has ascertained, after careful investigation and inquiry into the financial condition of said stockholders, that only approximately $155,400 of said total amount is considered collectible, leaving of doubtful collectibility the sum of $178,325.

That on account of the general conditions at this time, the incomes of the said stockholders have greatly diminished, and the value of property held by them has also greatly diminished. That petitioner has received from said group of stockholders abovementioned, an offer of $210,000 in cash in full settlement of their stock liability according to the list above set forth. That petitioner, after careful consideration of said matter, came to the conclusion that it was to the best interest of his trust to accept said offer of $210,000, the same to be paid in cash in cancelation and settlement of said stock liability, and fully reported his conclusion to the Comptroller of the Currency by letter dated January 14, 1933. That the Comptroller of the Currency by letter dated January 19, 1933, has authorized petitioner, with the consent of this honorable court, to accept the said sum of $210,000, in full settlement of said stock liability, and that the suits pending by petitioner in this honorable court at Biloxi, Miss., to enforce said stock liability, be dismissed with prejudice.

Wherefore, petitioner prays for an order authorizing him to accept the said sum of $210,000 in full settlement and satisfaction of the stock liability of the aforementioned stockholders of the First National Bank in Gulfport, and that he be further authorized to execute a full release to the said stockholders covering said stock liability. That the suits pending, as aforesaid, be dismissed with prejudice at the costs of plaintiff in said suits, the petitioner herein.

And as in duty bound, etc.

FORD, WHITE & MORSE,
Attorneys for Petitioner.

STATE OF MISSISSIPPI,
County of Harrison:

Personally appeared before the undersigned authority in and for said county and State, A. F. Rawlings, who, first being duly sworn, deposes and says he is receiver of the First National Bank in Gulfport, by appointment of the Comptroller of the Currency of the United States. That the facts, matters, and things set forth in the foregoing petition are true and correct as therein stated to the best of his information, knowledge, and belief.

A. F. RAWLINGS.

Sworn to and subscribed before me this 23d day of January 1933.

[SEAL] MAZIE D. SIMPSON,
Notary Public.

In re First National Bank in Gulfport, in liquidation. No. 387 in equity. Order

There coming on to be heard the petition of A. F. Rawlings, receiver of the First National Bank in Gulfport, for leave and authority to settle and compromise the stockholder's liability of certain stockholders in said bank, which liability has accrued pursuant to assessment made by the Comptroller of the Currency against said stockholders, and it appearing that there were stockholders in said bank at the time of the closing thereof holding stock of par value as set forth as follows, to wit:

Annie D. Bond	$2,400.00
A. M. Cowan	2,000.00
R. G. Cox	1,200.00
A. F. Dantzler	20,000.00
G. B. Dantzler	24,000.00
L. N. Dantzler	4,800.00
Bessie H. Dantzler	2,400.00
H. M. Rollins	800.00
A. E. Fant	9,850.00
Hanun Gardner	3,625.00
R. H. Hardtner	1,600.00
Mrs. Maude Winchester Gardner	1,250.00
J. J. Harry	100,000.00
Mrs. F. E. Havard	2,000.00
W. B. Herring	23,450.00
Malcolm McEachern	550.00
Grace Jones Stewart	115,200.00
W. T. Stewart	1,000.00
W. G. Field	4,000.00
Paul Jenkins	1,600.00
B. G. Lake	4,000.00
Morris Lake	1,600.00
J. S. Walker	2,400.00
W. K. Walker	4,000.00

and that it is doubtful whether or not the full amount of said liability can be realized from said stockholders, even should judgment therefor be obtained; and

It further appearing that in all probability only an amount approximately $155,400 of said total amount is collectible, leaving of doubtful collectibility $178,325; and

It further appearing that suits are now pending in the United States District Court for the Southern Division of the Southern District of Mississippi, at Biloxi, Miss., by A. F. Rawlings, receiver of said bank, against all of the above-named parties to enforce the collection of said stockholders' liability pursuant to said assessment; and

It further appearing that said stockholders above listed as a group have offered to pay said receiver the sum of $210,000 in cash in full settlement of their said stock liability, as above set forth, and the court having considered said matter, and being of the opinion that it is to the best interest of petitioner's trust that said compromise and settlement be entered into and effected; and

It further appearing that the Comptroller of the Currency of the United States has, by letter dated January 19, 1933, authorized and approved said settlement and compromise, subject to the consent of this court; it is therefore

Ordered, adjudged, and decreed that A. F. Rawlings, receiver of First National Bank in Gulfport, be, and he is hereby, authorized to accept from said stockholders hereinabove listed as a group the sum of $210,000 in full settlement of their said stock liability, as hereinabove listed, in the First National Bank in Gulfport, and to execute releases to said stockholders upon payment in cash of said sum, of their liability as stockholders of the First National Bank in Gulfport, and that said receiver is authorized at the next succeeding term of this court, in which suits are pending as aforesaid, to dismiss the same with prejudice, and at the cost of said receiver.

Ordered, adjudged, and decreed, in vacation, at Yazoo City, Miss., this 25th day of January 1933. E. R. HOLMES, *Judge.*

Vacation order book no. 2, United States District Court, Biloxi, page 96.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

I, B. L. Todd, Jr., clerk of the United States District Court in and for the Southern District of Mississippi, do hereby certify, that the annexed and foregoing is a true and full copy of the original petition, Equity Docket No. 387, with the order thereon dated January 25, 1933, now remaining among the records of the said court in my office, Biloxi, Miss.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid court at Biloxi, Miss., this 14th day of February, A. D. 1936.

B. L. TODD, Jr.,
Clerk.

[SEAL] By GEO. P. MONEY,
Deputy Clerk.

Mr. BILBO. I have a statement in the form of a petition by the receiver showing that certain representatives of the great railroad, known as the Gulfport & Savannah, have been relieved in a similar way. I ask that that may be inserted in the RECORD also.

There being no objection, the petition and order were ordered to be printed in the RECORD, as follows:

In the District Court of the United States for the Southern Division of the Southern District of Mississippi. In re: First National Bank of Gulfport, in liquidation. No. 413, equity

Petition of A. F. Rawlings, receiver

To the Honorable E. R. HOLMES, *Judge:*

Your petitioner would respectfully show unto the court that he was, on August 9, 1932, appointed receiver of the First National Bank of Gulfport, a national banking corporation, by the Comptroller of the Currency of the United States, and that petitioner has since said time, and is now, proceeding with his duties in the liquidation of the affairs of said banking institution in pursuance to said appointment.

Petitioner would further respectfully show unto the court that among the stockholders of the First National Bank of Gulfport, at the time the same closed and was placed in liquidation by the Comptroller of the Currency, were the following stockholders, who owned stock of the par value in said bank set opposite their respective names, to wit:

Stockholder:	*Amount of stock*
J. I. Ballenger	$1,000.00
Walter W. Barber	1,250.00
Annie D. Bond	1,500.00
A. M. Cowan	2,525.00
U. A. Cuevas	1,500.00
A. F. Dantzler	12,200.00
G. B. Dantzler	14,900.00
L. N. Dantzler	14,925.00
L. N. Dantzler, Jr	1,800.00
S. K. Day	1,500.00
Marjorie Dorhauer	1,000.00
B. E. Eaton	2,300.00
Estate of W. G. Evans	3,000.00
A. E. Fant	6,200.00
Hanun Gardner	7,050.00
Estate of Pursdon	500.00
J. W. Griffin	11,550.00
J. J. Harry or M. L. Harry	64,725.00
J. J. Harry, Jr	1,200.00
B. Havard	1,100.00
J. Paul Jenkins	2,000.00
J. W. Milner	1,000.00
Chas. McEachern	550.00
C. A. McWilliams	1,000.00
Mrs. E. P. Odeneal	800.00
V. J. Olivari	1,000.00
Mrs. J. B. H. Osborne	3,000.00
F. V. Osborne	4,000.00
J. R. Porter	800.00
H. M. Rollins	1,000.00
H. E. Shulenberger	500.00
Jos. Van Cloostere	2,800.00
Mary L. Van Cloostere	4,800.00
Emily Jane Wadlow	400.00
Helen Marr Wadlow	400.00
W. F. Walker	7,500.00
R. E. Wilbourn	1,025.00
Mrs. W. I. Wilder	2,000.00
E. C. Weston	200.00
H. C. Weston	200.00
D. R. Weston	2,000.00
Mrs. D. R. Weston	1,500.00
Total	190,200.00

That after appointment of petitioner as receiver aforesaid, the Comptroller of the Currency of the United States duly made assessment against said stockholders for the par value of said stock in the amounts as hereinabove shown. That said stock assessments were not paid, and petitioner, pursuant to instructions of the Comptroller of the Currency, instituted suits in the United States District Court for the Southern Division of the Southern District of Mississippi, at Biloxi, seeking to recover of and from said stockholders the full amount of the par value of said stock as hereinabove shown, and said suits are now on file and pending in said court.

That of said total amount of stock so held by the above-named stockholders in the sum of $190,200, petitioner has ascertained, after careful investigation and inquiry into the financial condition of said stockholders, that his ability to collect same is extremely doubtful.

On account of general conditions at this time the incomes of the said stockholders have greatly diminished, and the value of property held by them has also greatly diminished.

That petitioner has received from said group of stockholders above mentioned an offer of $126,500 in cash in full settlement of their stock liability according to the list above set forth. That petitioner, after careful consideration of the said matter, came to the conclusion that it was to the best interest of his trust to accept said offer of $126,500, the same to be paid in cash in cancelation and settlement of said stock liability, and fully reported his conclusion to the Comptroller of the Currency by letter of February 18, 1933. That the Comptroller of the Currency by wire of date of May 29, 1933, has authorized petitioner, with the consent of this honorable court, to accept the said sum of $126,500 in full settlement of said stock liability, and that the suits pending by petitioner in this honorable court at Biloxi, Miss., to enforce said stock liability be dismissed with prejudice.

Petitioner would further respectfully show unto the court that among the stockholders of the First National Bank of Gulfport, at the time same was closed, were the estate of Mrs. Jos. T. Jones in the sum of $20,000, of which estate Mrs. Grace E. Jones Stewart is executrix, and also Mrs. Grace E. Jones Stewart was a stockholder in said bank individually in the sum of $21,000. Your petitioner has received from the estate of Mrs. Jos. T. Jones and Mrs. Grace E. Jones Stewart individually an offer of $35,000 in cash, to be paid by said estate and said Mrs. Stewart in full and final settlement of the stock liability of said estate and said Mrs. Grace E. Jones Stewart. That as a matter of expediency and in order to bring about an amicable, speedy, and profitable settlement and compromise of the liability of said estate and of said Mrs. Grace E. Jones Stewart, petitioner is of the opinion that said offer should be accepted. Petitioner believes that it is to the best interest of his trust that the sum of $35,000 so offered to be paid in cash in settlement of said liability aforesaid be accepted.

That the Comptroller of the Currency has, by letter, approved said setlement as a matter of expediency and in order to expedite the liquidation of the affairs of said bank, and has by said letter authorized petitioner to accept the sum of $35,000 in cash in settlement of said liability aforesaid.

That among the stockholders of the First National Bank of Gulfport was the estate of Jane A. Littlepage, of which estate Louise A. Littlepage was administratrix. That the said estate is insolvent. That it formerly owned shares of stock in said bank of the par value of $600. That said Louise A. Littlepage has been able to borrow the sum of $335.79, which she has offered to petitioner in full settlement of the stock liability of the estate of Jane A. Littlepage. That petitioner believes it to the best interest of his trust to accept the same, and has been authorized by the Comptroller of the Currency, by letter dated May 5, 1933, to accept said sum in full settlement of said stock liability.

Wherefore petitioner prays for an order authorizing him to accept the sum of $126,500 in full settlement and satisfaction of the stock liability of the above-mentioned stockholders of the First National Bank of Gulfport, other than the estate of Mrs. Joseph T. Jones in the sum of $20,000 and Mrs. Grace E. Jones Stewart in the sum of $21,000, and estate of Jane A. Littlepage in the sum of $600; and that he be authorized to accept the sum of $35,000 in full settlement and satisfaction of the stock liability of the estate of Mrs. Joseph T. Jones and of Mrs. Grace E. Jones in the said First National Bank of Gulfport, and the sum of $335.79 in full settlement of the stock liability of the estate of Jane A. Littlepage, as aforesaid; and that he be further authorized to execute and deliver full releases to said stockholders covering said liability. That the suits pending, as aforesaid, be dismissed with prejudice at the cost of the plaintiff in said suits, the petitioner herein.

And as in duty bound, etc.

FORD, WHITE & MORSE,
Attorneys for Petitioner.

STATE OF MISSISSIPPI,
County of Harrison:

Personally appeared before the undersigned authority in and for said county and State, A. F. Rawlings, who, being first duly sworn, deposes and says he is receiver of the First National Bank of Gulfport by appointment of the Comptroller of the Currency of the United States; that the facts, matters, and things set forth in the foregoing petition are true and correct as therein stated to the best of his information, knowledge, and belief.

A. F. RAWLINGS.

Sworn to and subscribed before me this 30th day of May 1933.

[SEAL] MAZIE D. SIMPSON,
Notary Public.

In re First National Bank of Gulfport, in liquidation. No. 413, equity. Order approving settlement with stockholders in First National Bank of Gulfport

There coming on to be heard the petition of A. F. Rawlings, receiver of the First National Bank of Gulfport, for leave and authority to settle and compromise the stock assessments and suits pending thereon of the stockholders in the First National Bank of Gulfport, mentioned and set forth in said petition, and the court,

having considered said matter, it is therefore ordered, adjudged, and decreed:

1. That A. F. Rawlings, receiver of the First National Bank of Gulfport, be and he is hereby authorized to accept the sum of $126,500 in cash in full and final settlement of the stock liability and the assessment thereon of the following stockholders in the First National Bank of Gulfport:

Stockholder:	*Amount*
J. I. Ballenger	$1,000.00
Annie Bond	1,500.00
U. A. Cuevas	1,500.00
G. B. Dantzler	14,900.00
L. N. Dantzler, Jr	1,800.00
Marjorie Dorhauer	1,000.00
Estate of W. G. Evans	3,000.00
Hanun Gardner	7,050.00
J. W. Griffin	11,550.00
J. J. Harry, Jr	1,200.00
J. Paul Jenkins	2,000.00
Charles McEachern	550.00
Mrs. E. P. Odeneal	800.00
Mrs. J. B. H. Osborne	3,000.00
J. R. Porter	800.00
H. E. Shulenberger	500.00
Mary L. Van Cloostere	4,800.00
Helen Marr Wadlow	400.00
R. E. Wilbourn	1,025.00
E. C. Weston	200.00
D. R. Weston	2,000.00
Walter W. Barber	1,250.00
A. M. Cowan	2,525.00
A. F. Dantzler	12,200.00
L. N. Dantzler	14,925.00
S. K. Day	1,500.00
B. E. Eaton	2,300.00
A. E. Fant	6,200.00
Estate of Fursdon	500.00
J. J. or M. L. Harry	64,725.00
B. Havard	1,100.00
J. W. Milner	1,000.00
C. A. McWilliams	1,000.00
V. J. Olivari	1,000.00
F. V. Osborne	4,000.00
H. M. Rollins	1,000.00
Jas. Van Cloostere	2,800.00
Emily Jane Wadlow	400.00
W. F. Walker	7,500.00
Mrs. W. I. Wilder	2,000.00
H. C. Weston	200.00
Mrs. D. R. Weston	1,500.00

And that he execute and deliver to said stockholders full and complete releases, relieving them from liability on account of said stock assessment made against them, and each of them, as stockholders in the First National Bank of Gulfport.

2. That the said A. F. Rawlings, receiver of First National Bank of Gulfport, be and he is hereby authorized to dismiss with prejudice at the cost of plaintiff the suits pending in this court against said stockholders to enforce said stock liability on account of the assessments made as set forth in said petitions.

3. That A. F. Rawlings, receiver of First National Bank of Gulfport, be and he is hereby authorized to accept from the estate of Mrs. Joseph T. Jones and from Mrs. Grace E. Jones Stewart, the sum of $35,000 in cash, in full and complete settlement of the stock liability of the said estate of Mrs. Joseph T. Jones, and of Mrs. Grace E. Jones Stewart, pursuant to the assessments heretofore made, and to execute and deliver to said estate and to said Mrs. Grace E. Jones Stewart, a full and complete release, relieving said estate and Mrs. Grace E. Jones Stewart from liability on account of said assessment, as set forth in said petition.

4. That A. F. Rawlings, receiver of First National Bank of Gulfport, be and he is hereby authorized to accept from the estate of Jane A. Littlepage, the sum of $335.79, in full settlement of said stock liability of said estate, and to execute a full and complete release of said estate from said liability as aforesaid.

5. That A. F. Rawlings, receiver of First National Bank of Gulfport, be and he is hereby authorized and empowered to dismiss with prejudice at the cost of plaintiff, the suits pending in this court, to enforce said stock liability pursuant to said assessment.

6. The court finds that it is to the best interest of petitioner's trust that said amounts, as hereinabove set forth, be accepted in cash in full, complete and final settlement of said stock liability, and said stock assessment aforesaid.

Ordered, adjudged, and decreed this 31st day of May 1933, in vacation, at Yazoo City, Miss.

E. R. HOLMES, *Judge.*

Vacation order book no. 2, United States district court, Biloxi, page 150.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

I, B. L. Todd, Jr., clerk of the United States District Court in and for the Southern District of Mississippi, do hereby certify that the annexed and foregoing is a true and full copy of the original petition, Equity Docket No. 413, with the order thereon dated May 31, 1933, now remaining among the records of the said court in my office in Biloxi, Miss.

In testimony whereof, I have hereunto subscribed by name and affixed the seal of the aforesaid court at Biloxi, Miss., this 14th day of February, A. D. 1936.

B. L. TODD, Jr., *Clerk.*
By GEO. P. MONEY, *Deputy Clerk.*

Mr. BILBO. Mr. President, I now come to a statement about the president of another bank, Mr. Tonsmeire, of Biloxi, he being a high-salaried official. Notwithstanding the fact he is very wealthy and the president of a bank in an adjoining city, in the general dissipation of the assets of the bank of Gulfport he was released as there disclosed. I ask that this order may be printed in the RECORD.

There being no objection, the order was ordered to be printed in the RECORD, as follows:

STATE OF MISSISSIPPI,
County of Harrison:

Know all men by these presents, that whereas in cause no. 9234, styled *First National Bank in Gulfport* v. *D. R. McInnis, W. A. McInnis, E. C. Tonsmeire, L. V. Pringle, D. J. Gay, and N. M. McInnis*, the said First National Bank in Gulfport did, on October 17, 1931, obtain judgment in said circuit court against the defendants named, in the sum of $8,719.39 and costs, which judgment was on November 21, 1931, duly enrolled in judgment roll no. 6, page 286, on file in the office of the circuit clerk of Harrison County, Miss.; and

Whereas said judgment and costs remain unsatisfied and is now held and owned by A. F. Rawlings, receiver of the First National Bank in Gulfport; and

Whereas said E. C. Tonsmeire has paid to said undersigned receiver the sum of $1,250 for a release of said judgment insofar as he is concerned, but not as a release in any way of the liability of the other judgment debtors: Now, therefore

In consideration of said sum of $1,250 cash in hand paid, receipt whereof is hereby acknowledged, the undersigned receiver, owner of said judgment, hereby covenants and agrees with the said E. C. Tonsmeire that he will cause no execution to issue against said E. C. Tonsmeire on account of said judgment, the said liability of the said E. C. Tonsmeire having been compromised and satisfied for the above-mentioned sum.

This covenant, however, is in no manner to inure to the benefit of the other defendants in said suit, against whom judgment was rendered.

This covenant is executed pursuant to authority of the Comptroller of the Currency of the United States and the District Court of the United States for the Southern Division of the Southern District of Mississippi.

Witness my signature this 25th day of May 1935.

A. F. RAWLINGS,
Receiver of First National Bank in Gulfport.

STATE OF MISSISSIPPI,
County of Harrison:

Personally appeared before the undersigned authority in and for said county and State A. F. Rawlings, receiver of the First National Bank in Gulfport, who acknowledged that he signed and delivered the foregoing instrument on the day of the date thereof.

Given under my hand and seal of office this 25th day of May 1935.

[SEAL] MAZIE D. SIMPSON,
Notary Public.

Commission expires August 13, 1938.

Filing	$0.05
350 words	.35
Certificate	.50
Total	.90

The instrument of which the foregoing is a record was delivered to me to be recorded at 9 a. m. on the 15th day of June 1935 and recorded on the 19th day of June 1935.

EUSTIS MCMANUS, *Clerk.*

STATE OF MISSISSIPPI,
County of Harrison:

We hereby certify that the foregoing two sheets constitute a full, true, and compared copy of that certain release executed by A. F. Rawlings, receiver of First National Bank in Gulfport, to E. C. Tonsmeire, under date of May 25, 1935, as same appears of record in book 205, at page 562, of the records of deeds of Harrison County, Miss.

In witness whereof we have hereunto set our hand and affixed our seal this the 12th day of February 1936.

[SEAL] MISSISSIPPI ABSTRACT TITLE & GUARANTY CO.,
By H. R. BARBER, *Secretary.*

Mr. BILBO. Mr. President, I have others here. I could go on and fill the RECORD with them, but I think this is enough to convince any inquiring mind, any open mind, that there ought to be an investigation made of the affairs of this bank. I do not want the Senate to go into a general investigation of the liquidation of banks throughout the country, but here is a case that was an issue in a political campaign, where 6,000 depositors were wrecked financially as a result of the failure of this great bank, a bank with assets of over $4,000,000; a bank whose depositors became

so thoroughly outraged because of the way in which the receiver and the judge approving his action had handled the affairs that they had a depositors' committee appointed; and the committee were absolutely left out of consideration. They were given no chance to make a showing; they were given no consideration in the way this property was handled that stood out in the community, and everybody could see it, and knew it was going. It belonged to the bank. It belonged to these 6,000 depositors, many of them widows, laboring people, young men who had worked for years to get money to go to college. They were wiped out. Their deposits were taken away from them. Yet, in the face of all this, the committee, as I am informed, were denied any opportunity to enter a proper protest.

I merely asked that this depositors' committee, that had in interest the welfare of these 6,000 depositors, be permitted to come here and tell what they knew about it. I am only giving you the information which has been given to me. I am not testifying. I am not a witness. I am making an allegation; and I am asking that you Senators, if you care anything about fair play and want this thing aired and want to know the facts, have this matter investigated.

Mr. CONNALLY. Mr. President, will the Senator yield for a point of no quorum?

Mr. BILBO. Yes.

Mr. CONNALLY. I make the point that there is no quorum present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	King	Pittman
Ashurst	Costigan	La Follette	Pope
Austin	Davis	Lewis	Radcliffe
Bachman	Dickinson	Logan	Reynolds
Bailey	Donahey	Lonergan	Robinson
Barbour	Duffy	Long	Russell
Barkley	Fletcher	McGill	Schwellenbach
Benson	Frazier	McKellar	Sheppard
Bilbo	George	McNary	Shipstead
Black	Gibson	Maloney	Smith
Brown	Glass	Metcalf	Steiwer
Bulkley	Gore	Minton	Thomas, Okla.
Bulow	Guffey	Moore	Thomas, Utah
Burke	Hale	Murphy	Townsend
Byrd	Harrison	Murray	Truman
Byrnes	Hatch	Neely	Vandenberg
Capper	Hayden	Norbeck	Van Nuys
Caraway	Holt	Norris	Wagner
Clark	Johnson	O'Mahoney	Wheeler
Connally	Keyes	Overton	White

The PRESIDING OFFICER. Eighty Senators have answered to their names. A quorum is present. The Senator from Mississippi will proceed.

Mr. BILBO. Mr. President, in my discussion prior to the roll call I was directing the attention of the Senate to the wholesale and reckless loss brought about by the liquidation of the First National Bank of Gulfport; and I had incorporated in the RECORD as a part of my remarks certified copies which show the petitions of the receiver that were filed and presented to the court for his approval. The poor depositor of the bank knows nothing about them. He has no way of "getting next." He is on the outside. All this is monkey business taking place between the court and the receiver; and I desired to bring this committee of depositors before the committee in order to develop just how bad the situation was in this particular liquidation in Gulfport.

I have had several reports as to other liquidations, where it seems that the instructions of Mr. Lyons were that the "sore thumb" cases should receive special consideration at the hands of the judge, and that he has not complied. But I was urged not to bring any additional information against this judge, the impression being left with me that I had brought enough, and that the charges which I had brought would be investigated. But I find that after I cease to bring additional charges the matter is closed without the subcommittee investigating the charges which are preferred.

I wish to direct the attention of the Senate especially to what I believe to be one of the most serious charges preferred against Judge Holmes in this investigation. The sponsors for Judge Holmes will try to lead Senators to believe that Senator BILBO, who is known far and near as a prohibitionist, hailing from a prohibition State, had suddenly blossomed into a defender of the poor bootleggers down in Mississippi. I want it distinctly understood that I have been a prohibitionist all my life, and I am still a prohibitionist, and, with rare exception, by both precept and example. I am no defender of the bootlegger; but I cannot understand why my distinguished friend the junior Senator from Nebraska [Mr. BURKE] should slurringly refer to the man who is charged with the sale of liquor down in the State of Mississippi.

Mr. President, law is a strange thing. Under the laws passed by men like us, an act may be perfectly all right today, it may be honorable, it may be dignified, it may be just the thing to do, yet we get a peculiar slant on life and on social conditions, and by mere enactment of the representatives of the people we provide that the act that is honorable today will be dishonorable tomorrow, and the act that was dishonorable yesterday is honorable today. That is the way I look at the liquor business.

I have seen respectable people, honorable people, right here in the city of Washington, who are today selling whisky at the drug stores and the grocery stores, here, there, and everywhere. They are gentlemen; they enjoy good social standing; they are honest and honorable. Just because down in dry old Mississippi a few of our citizens try to come to the rescue of the drys by furnishing them corn in liquid form at an oasis in the desert, I do not believe they should be altogether outlawed. I believe that, in spite of the fact that a man would sell whisky, he could tell the truth. But my friend tried to leave the impression on the Senate that I have been trying to make out a case against Judge Holmes with a bunch of old bootleggers. Not so, my colleagues. I am trying to make out a case of the most willful, vicious, ignorant administration of law that can be found anywhere in this country. I do not think such conditions can be found anywhere else.

In order to understand this charge I desire to take sufficient time of the Senate to call attention especially to the law. Immediately after the World War, when the United States became dry, Congress passed the liquor law, which provided:

> Any person who manufactures or sells liquor in violation of this title shall, for a first offense, be fined not more than $1,000 or imprisoned not exceeding 6 months, and for a second or subsequent offense shall be fined not less than $200 nor more than $2,000 and be imprisoned not less than 1 month nor more than 5 years.

That was the general penalty clause of the prohibition law of 1919, passed immediately after the World War.

Things rocked along, and the enforcement of the national prohibition law did not seem to have the proper effect, and Congress, in its very great desire to clean up the country, on March 2, 1929, passed an additional law, known as the Jones law, which was an amendment of the general prohibition statute of 1919. In that law Congress provided:

> That wherever a penalty or penalties are prescribed in a criminal prosecution by the National Prohibition Act, as amended and supplemented, for the illegal manufacture, sale, transportation, importation, or exportation of intoxicating liquor, as defined by section 1, title 2, of the National Prohibition Act, the penalty imposed for each such offense shall be a fine not to exceed $10,000 or imprisonment not to exceed 5 years, or both: *Provided*, That it is the intent of Congress that the court, in imposing sentence hereunder, should discriminate between casual or slight violations and habitual sales of intoxicating liquor, or attempts to commercialize violations of the law.

Congress passed a general prohibition law in 1919 and fixed as the penalty for violation a fine up to $2,000, or 6 months' imprisonment. That did not seem to have the desired result. There seemed to be wet spots throughout the country in spite of the law. Enforcement seemed to have broken down. So Congress, in its great desire to provide a real test, and to put teeth in the law, in 1929 passed the Jones Act, which increased the penalty to $10,000 or 5 years in the penitentiary, not a new penalty, but an increased penalty, that is all. That is all Congress was trying to do, to increase the penalty to $10,000 or 5 years, so that the big boys could not pay off and get by. It was the intention to get them all.

That law as passed had no reference to the quantity of whisky which a man might sell. He could sell a pint, or a

quart, or a gallon, or 5 gallons, or 500 gallons, it did not make any difference, but if he sold whisky he could be punished. Congress said that it was the intent that the court should discriminate between casual violations and habitual sales of intoxicating liquor. After a conviction was had, it was all right for the court to take testimony to determine the character of the prisoner and the extent of his violations.

On January 15, 1931, Congress amended the Jones law—and the Jones law was an amendment of the prohibition law; so we now have the law, and we had it as it was when prohibition was repealed under the Democratic administration, as follows:

That the proviso in the first section of the act entitled "An act to amend the National Prohibition Act, as amended and supplemented", approved March 2, 1929, is hereby amended to read as follows—

Now note this:

That any person who violates the provisions of the National Prohibition Act, as amended and supplemented, in any of the following ways: (1) By a sale of not more than 1 gallon of liquor as that word is defined by section 1 of title 2 of said act:

Provided, however, That the defendant has not theretofore within 2 years been convicted of a violation of the said act or is not engaged in habitual violation of the same; (2) by unlawful making of liquor * * *—

Then follow the penalties for these violations:

shall for each offense be subject to a fine of not to exceed $500 or to be confined in jail, without hard labor, not to exceed 6 months, or both.

That is the law. Lawyers in Mississippi and persons who are keeping an eye on the way things are moving reported to me that Judge Holmes was acting in open violation of this act of Congress and flying in the face of the opinions of the appellate courts of the country and was railroading to the penitentiary not 1, not 2, not 14, not 100, but 500, yea, a thousand, of the poor, defenseless violators down in Mississippi.

I do not know what Senators think about a penitentiary sentence; but it strikes me there is not anything more harmful to contemplate than for a man to be jerked from the bosom of his family for the offense of selling liquor. When such a man is sent to the penitentiary it wrecks his home, wrecks his family, demoralizes them, puts a stigma and an odium and disgrace upon the family, blights the future of the boys and girls who are young, full of life, and looking to the future with ambition. I care not if the father has violated the law. In Washington it is not a violation of the law to sell liquor. It is an honorable act. Down in Mississippi it is a violation of the law. This judge has railroaded to the penitentiary, as I said, not a dozen men but a hundred, five hundred, yea, a thousand, in direct violation of the statute of Congress.

Did Senators know that the subcommittee did not want me to prove that? They said, "BILBO wants to bring up here a lot of bootleggers to prove that they got an unjust sentence." No; the subcommittee has never even seen the list of my witnesses.

The other day, when I was begging members of the subcommittee to subpena these witnesses, I said, "I have here another list of witnesses. I want to give you the names of witnesses, whom I can bring here, who will substantiate these charges, dependable witnesses, witnesses who will tell the truth. Of course, if you do not want to believe a man who has been charged formally with the sale of liquor when it is not a violation of law today, if you do not wish to take such a witness's word for it, there are other witnesses I can get, and I propose to get them." No; instead of letting me show that, they proposed to bring Judge Holmes and Mr. Todd up here to show that it was not so bad after all; that it was "much ado about nothing."

I repeat, I am not defending the bootlegger; but I am trying to show Senators that they have before them a judge who is so reckless, or who is so vicious, or who is so ill-informed, or who is so indolent that he will not find out what the law is; and to put him on the bench of the fifth circuit to review the act of other judges is to my mind unthinkable. I think I can show Senators that it is so.

I cited correspondence with the subcommittee in my vain attempt to get the witnesses subpenaed. I ask unanimous consent to have this correspondence printed in the RECORD at this point as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The correspondence is as follows:

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
February 1, 1936.

Senator EDWARD R. BURKE,
Senator KEY PITTMAN,
Senator WARREN R. AUSTIN,
Members of the Subcommittee of the Committee on the Judiciary Investigating the Matter of the Confirmation of Judge Edwin R. Holmes.

GENTLEMEN: Since receiving the transcript or copy of the proceedings before your honorable committee, in the matter of the confirmation of Judge Holmes, I feel that, in the interest of justice and a proper presentation of all facts, I should appeal to you to reopen this hearing and take further testimony, and I earnestly urge that you extend your investigation, going fully into the matters hereinbefore mentioned.

First, I think it advisable to reopen the case and take the testimony of Judge T. Webber Wilson, who lives here in Washington and is now a member of the National Parole Board, having recently served as Federal judge in the Virgin Islands. In my reply brief to the brief filed by Hon. Gerald Fitzgerald, I refer to the political activities of Judge Holmes in Mr. Wilson's race for the United States Senate. I clearly overlooked the development of the facts in this matter, and I think this testimony is pertinent to contradict conclusively the contentions of Judge Holmes to the effect that he was nonpartisan and never took a part in politics. Of course, Judge Holmes should have an opportunity to be heard on this point after introducing the testimony of Mr. Wilson and others to thoroughly substantiate the point.

Second, never dreaming that there would be an effort made by my colleague to urge the confirmation of Judge Holmes at this session of Congress over my objections, and knowing that Judge Holmes was personally obnoxious to me, and that I would never give my consent to his confirmation, I made no extensive investigation into his record, but since the closing of this hearing I have been reliably informed by a member of the Mississippi bar of incidents or acts of Judge Holmes that should be conclusive to the committee and the Senate in reaching a decision to decline further promotion of this man in the Federal judiciary. I have reference to additional acts besides those already urged before this committee. Judge Holmes is either so ill-informed as to his duties and the law governing him in his functions as a judge, or his absolute indolence and indifference as to what his duties and powers are, that at the February term of the circuit court at Biloxi, Miss., he imposed sentences in open court on quite a number of citizens, and after sending them to jail, and after being advised by the district attorney, those citizens had to be brought back into open court and resentenced.

About 4 or 5 years ago one of the most unthinkable, unjustifiable, illegal, and unconscionable acts of Judge Holmes was perpetrated upon a reputable white citizen of Amite County, Miss. I am reliably informed, and believe the records will show in this case, that upon the conviction or plea of guilty of a man by the name of Day, a citizen of Amite County, Miss., and a member of one of the leading families of that county, Judge Holmes sentenced him to 2 years in the Atlanta Penitentiary, and after serving in the penitentiary for about 14 months of the 2 or 3 years' sentence it was discovered that Judge Holmes violated the law in imposing this penitentiary sentence for a violation that carried only fine and imprisonment.

I am informed, and believe, that other citizens were likewise sent to the penitentiary without authority of the law, and that an investigation of the facts will show these charges to be absolutely true. These acts of Judge Holmes were committed after he had been on the district bench for many years and are therefore absolutely inexcusable.

If these charges are true, and I believe them to be because my source of information is absolutely reliable, it would be unthinkable that the Senate of the United States could entertain for one moment a promotion of such a man to the court of appeals. The mere thought of an autocratic and tyrannical Federal judge incarcerating illegally, and without authority of the law, a citizen of this country in the Federal penitentiary is so abhorrent to our conception of the rights and freedom of our people until I am sure this committee could never get its consent to rush the confirmation or promotion of a judge in the Federal judiciary until time and opportunity have been freely granted to determine the verity of such a horrible miscarriage of justice.

Third. I want to renew my urgent request that the committee go thoroughly into the investigation of Judge Holmes' actions or acts that contributed to the wasteful and unthinkable dissipation of the assets of the First National Bank of Gulfport, to the great harm of about 6,000 depositors in this bank. I am just in receipt of a telegram stating that in one instance a party connected with this bank stole $10,000 of the bank's money and, because of political influence and pull, the judge merely gave him a suspended sentence. I am sure if you gentlemen will go into the investigation of the court's action in approving the unconscionable dissi-

pation of the bank's assets in this case, you will be convinced beyond every reasonable doubt that Judge Holmes is totally unfit to be a reviewing judge or to serve on the circuit court of appeals—the court, in many cases, of last resort.

Fourth. I again renew my request that you demand of Judge Holmes the list of my personal and political friends—lawyers—from whom he claims to have received information that I had expressed willingness to approve his appointment. I want the names of these attorneys, and I want them summoned before your committee. If Judge Holmes fails to make good his boast, I want it made a part of the record and brought to the attention of the whole committee.

All these facts are pertinent to the issue before you, and will most certainly have great bearing upon any committee in reaching a righteous conclusion.

In this connection, I want to state frankly to the committee that I sought the permission of President Roosevelt to place his telegram to me in the RECORD, which I promised to do, and that the President expressed a hope that it would not be necessary to use his telegram, since the matter was thoroughly covered in the letter of Senator HARRISON, dated August 20, to Attorney General Cummings and the President, which letter is in evidence in the case and referred to by Senator HARRISON in his statement. This letter should have been published as a part of the record, and I am asking that it now be considered a part of the record.

I want to assure this committee, in asking that this hearing be reopened, that I have no desire to unnecessarily delay the consummation of this matter. I am as anxious as any Member of the Senate to dispose of this matter as expeditiously as possible. There is no pressing cause for rushing this matter. I am only seeking to bring before the committee all the pertinent facts affecting the fitness, qualifications, and other requisites that a judge should possess before being promoted to such a responsible position on the bench as a member of the circuit court of appeals.

If, in your wisdom, you desire to refuse the requests that I am making as hereinabove stated, I want to ask that this petition be made a part of this record, for discussion before the whole committee and the Senate, when this matter is being finally considered, and that I be given an opportunity to be heard before the whole committee when and if the matter is taken up for discussion before that committee.

With appreciation, I am,

Yours faithfully,

THEO. G. BILBO,
United States Senator.

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
February 3, 1936.

Senator THEODORE G. BILBO,
Senate of the United States.

DEAR SENATOR BILBO: As chairman of the subcommittee of the Judiciary Committee investigating the matter of the confirmation of Judge Edwin R. Holmes as judge of the circuit court of appeals, fifth circuit, I wish to acknowledge receipt of your communication which was delivered to me this morning about 10 o'clock by your Mr. Smith.

The other members of the subcommittee read your letter just prior to the opening of the meeting of the Judiciary Committee. As a matter of courtesy to you and without consideration as to the merits of your request to have further hearings before the subcommittee, we determined to make no report this morning.

I am sure you will agree that every opportunity was afforded you to present all relevant matters at the hearings which were concluded on January 25. This applies to the compulsory process in securing the attendance of witnesses and court records as well as in the matter of continuances of the time of hearing.

The committee feels that if the hearings are now to be reopened, it should be only upon some definite showing as to the materiality of any further evidence that may be offered. The committee, therefore, requests that in considering your application it should have before it answers to the following questions:

1. You request that the testimony of Judge T. Webber Wilson be taken in connection with your contention that Judge Holmes has been active in politics. Kindly indicate what you expect to prove by the testimony of Judge Wilson or anyone else concerning the political activities of Judge Holmes.

2. You say that you have now discovered that Judge Holmes imposed sentences at the February term of the circuit court at Biloxi on a number of defendants and that on the advice of the district attorney these parties had to be brought back into open court and resentenced. Please inform the committee what witness or witnesses you have in mind to call to establish the above allegation. What was the nature of the charges against these parties and what change in sentence was required?

3. In reference to the party by the name of Day, of Amite County, Miss., what was the offense for which he was sentenced to serve 2 years in the penitentiary and what is the statute applicable thereto?

4. You refer to an official of the First National Bank of Gulfport who stole $10,000 of the bank's money and received only a suspended sentence. Kindly furnish the committee with this party's name and a statement concerning what evidence you have that the action of the court was influenced by political considerations.

5. Judge Holmes offered to furnish a list of your personal and political friends who had informed him that heretofore you approved of his appointment. The committee sees no advantage in going into that matter, does not care to have the list of names furnished, and does not propose to call them before the committee.

In conclusion, the committee feels that a very thorough hearing has been had and consideration given to the question of the qualifications of Judge Holmes. It is, therefore, reluctant to reopen the hearings and does not propose to do so unless you furnish some very definite evidence that something of a material nature bearing on the qualifications of Judge Holmes will be presented.

We trust that you will give a very prompt response to this communication.

Yours very truly,

EDWARD R. BURKE.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
February 4, 1936.

Senator EDWARD R. BURKE,
Senate of the United States.

MY DEAR SENATOR BURKE: I am just in receipt of your esteemed favor of February 3, the same being in reply to my letter addressed to the members of the subcommittee of the Committee on the Judiciary investigating the matter of the confirmation of Judge Edwin R. Holmes, of which subcommittee you have the honor to be chairman.

I note that your committee "feels that if the hearings are now to be reopened", according, as I have most respectfully requested, "It should be only upon some definite showing as to the materiality of any further evidence that may be offered." Therefore, to the end that this showing may be made as a preliminary step to the reopening of the hearings, you, on behalf of your committee, have propounded to me four interrogatories to which I am requested to make answers.

It is my desire to comply fully with this expressed wish of your committee—in fact, to cooperate with the members thereof in every possible way so that full, complete, and dependable information in the nature of essential and material evidence may be made available for their use and consideration in arriving at final determination with respect to this important matter.

Consequently I am leaving for Mississippi this week for the purpose of securing the data required by your committee on the four cases referred to in your recent favor. Although the task assigned to me is one of considerable magnitude and will entail very appreciable costs in both money and time, I cheerfully undertake it, and, insofar as it is humanly possible, will in due time bring before your honorable committee satisfactory answers to the very definite and specific questions it has addressed to me.

I hope that my return with this requested data will be not later than Thursday or Friday of next week, but if, by any circumstance, it is necessarily delayed beyond that date, I most respectfully ask that no further action be taken in regard to the confirmation of Judge Holmes until I am ready and shall have been permitted to submit in writing my findings of facts.

Slightly digressing from the main purpose of this letter, I think it within the proprieties for me to convey to you my disappointment upon being advised by you that your committee saw no advantage in going into the matter of having Judge Holmes make good his boast that he could furnish a list of my personal and political friends who had informed him that I had approved his appointment. You will recall that I challenged Judge Holmes to submit that list and urged the committee to bring the parties he listed to Washington to testify to the truth or falsity of that statement. If Judge Holmes' voluntary declaration on this point could be impeached, or if he should refuse to furnish this list in an attempt to make good his boast, when ordered by the committee to do so, then it would follow that his qualifications for the appointment he sought would be materially impaired.

With grateful appreciation for this further opportunity accorded me to cooperate with your committee in placing before it additional material evidence having a direct bearing upon the essential question of qualifications involved in the hearing affecting the confirmation of Judge Holmes, I beg to remain,

Faithfully yours,

THEO. G. BILBO, *United States Senator.*

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
February 17, 1936.

Senator EDWARD R. BURKE,
Senator KEY PITTMAN,
Senator WARREN R. AUSTIN,
Members of the Subcommittee on the Judiciary
Investigating the Matter of the Confirmation
of Judge Edwin R. Holmes.

GENTLEMEN: In asking this honorable committee to reopen the hearing in the matter of the confirmation of Judge Holmes, I want to again especially call the attention of the committee to the fact that I never dreamed that there would be any effort made on the part of my distinguished colleague, Senator Harrison, to urge or persist in Judge Holmes' confirmation at this session of Congress, when he was fully advised of my objections to the confirmation of Judge Holmes and to the fact that because of his unwarranted mistreatment of me, as the records in this case will show, that Judge Holmes was personally obnoxious to me. and for this reason I made no effort before coming to Washington to attend this session of Congress, to investigate any of the facts involving the record of Judge Holmes touching upon the question of his fitness and qualifications for promotion to the position of judge of the United States Court of Appeals of the Fifth Circuit.

So your committee can readily appreciate the handicap under which I have been acting in ascertaining facts pertinent to the investigation.

I want to personally thank the committee for their kindness in delaying to report on this matter so as to give me time to make a hurry-up investigation, which I have attempted to do during the few days I was permitted to be in Mississippi.

First, I therefore renew my request that this subcommittee reopen the hearings in this matter in order that the following matters may be inquired into, and the facts concerning them fully developed before the committee, and if that is done I am convinced that this committee will find that the illegal sentence passed by Judge Holmes upon me was not the only case where he acted without authority of, and contrary to, the law, but that he has acted beyond his powers and has passed sentences illegally and contrary to the statutes in a number of other cases, and that the prisoners have been either released by other Federal judges in the districts where the prisoners were incarcerated, or remanded back to Judge Holmes to be resentenced in accordance with the law.

I also desire to establish that the statement of Judge Holmes that since he went on the Federal bench in Mississippi he has not participated in politics is untrue, and that as a matter of fact, he has actually participated in politics and became a vital instrument in a political campaign in 1928 for the United States Senate, leaving his court and his home and traveled approximately 150 miles to a political meeting in Neshoba County, Miss., where he got up in the meeting and made a statement in behalf of Senator Hubert D. Stephens, who was then a candidate for reelection against Hon. T. Webber Wilson, then a Member of the House of Representatives, and is now a member of the Federal Parole Board; and that that political statement of Judge Holmes contributed to the defeat of Mr. Wilson.

I therefore desire and request that a subpena be issued directed to Judge T. Webber Wilson, who resides in the city of Washington, at the Annapolis Hotel, and who has an office in the Department of Justice in Washington, and also a subpena directed to Col. Richard G. Wooton, who lives at 1726 Upshur Street NW., Washington, D. C., and who has an office in the Department of the Interior in this city, who was the campaign manager of Mr. Wilson in that campaign. Both Mr. Wilson and Colonel Wooton were present in Nashoba County at said political meeting at the time Judge Holmes made the statement in question, and will verify the facts herein charged.

I submit that the primary purpose of our fathers in writing into the Constitution of the United States that Federal judges should be appointed for life, or as the Constitution terms it—"during the period of good behavior"—was to entirely remove Federal judges from politics, and that they should not only not be obligated to support any party or ticket but that they should enter into no participation whatsoever in political activity. This political activity on the part of Judge Holmes, as established, is absolutely material as affecting his fitness and qualifications for promotion in the judiciary. And further, this political activity, when proven, confirms the fact that he was not immune from being motivated for political reasons in the imposition of an illegal and unwarranted sentence upon me at Oxford in 1923, while I was a candidate for Governor of my State, and I might say it serves still another purpose. This testimony, if I am permitted to bring it before the committee, will thoroughly impeach the credibility of Judge Holmes as a witness before this committee and will certainly have bearing upon his qualifications and fitness for more honors in the judiciary.

Second, in the matter of Jonathan Day, of Amite County, Miss., I wish to call the committee's attention to the fact that Judge Holmes on November 4, 1931, arbitrarily and contrary to and in violation of the law, sentenced said Jonathan Day to the United States penitentiary at Atlanta, Ga., for a period of 3 years for the possession of and sale of 1 pint of whisky; and Mr. Day was taken to the penitentiary by the United States marshal for the southern district of Mississippi, and there incarcerated, where he was put to work at hard labor in a factory in the penitentiary; and after about 5 months he was transferred with a gang of Federal convicts to Fort Bragg, N. C., where, for about 8 months, he was put to hard labor building roads in the military reservation at that place. After serving about 14 months at hard labor under said sentence of Judge Holmes, he was advised and informed by a fellow convict that Judge Holmes had passed an unlawful sentence upon him in that he had sentenced him to the penitentiary and to hard labor, and had found him guilty of a felony when the maximum penalty for the crime to which he pleaded guilty was only a misdemeanor, with the maximum penalty of "a fine not to exceed $500 or to be confined in jail, without hard labor, not to exceed 6 months, or both."

Thereupon Day sued out a writ of habeas corpus in the United States District Court for the Eastern District of North Carolina, and upon a hearing thereof at Greensboro, N. C., before the Honorable Isaac M. Meekins, United States district judge, he was promptly and finally discharged by order of Judge Meekins.

In this connection, I wish to call the attention of the committee to the fact that section 91, title 27, of the United States Code which governs penalties for violation of the National Prohibition Act as then standing upon the statutes, provided as follows:

"SEC. 91. Maximum penalties; petty offenses: Wherever a penalty or penalties are prescribed in a criminal prosecution by this title, for the illegal manufacture, sale, transportation, importation, or exportation of intoxicating liquor, as defined by section 4 of this title, the penalty imposed for each such offense shall be a fine not to exceed $10,000 or imprisonment not to exceed 5 years, or both: *Provided,* That any person who violates the provisions of this title, in any of the following ways: (1) By a sale of not more than 1 gallon of liquor as that word is defined by section 4 of this title: *Provided, however,* That the defendant has not theretofore within 2 years been convicted of a violation of this title or is not engaged in habitual violation of the same; (2) by unlawful making of liquor, as that word is defined by said section, in an amount not exceeding 1 gallon, in the production of which no other person is employed; (3) by assisting in unlawfully making or unlawfully transporting of liquor, as above defined, as a casual employee only; (4) by unlawfully transporting not exceeding 1 gallon of liquor, as above defined, by a person not habitually engaged or employed in, or not theretofore within 2 years having been convicted of a violation of such law, shall for each offense be subject to a fine of not to exceed $500 or to be confined in jail, without hard labor, not to exceed 6 months, or both (Mar. 2, 1929, ch. 473, sec. 1, 45 Stat. 1446, as amended Jan. 15, 1931, ch. 29, 46 Stat. 1036).

A reading of the above statute clearly shows that a person indicted for the first offense under the National Prohibition Act involving a sale of liquor in an amount less than 1 gallon, the maximum penalty fixed by the statute is: "A fine of not to exceed $500, or to be confined in jail, without hard labor, not to exceed 6 months, or both."

In the hearings before this committee on January 24, 1936 (p. 76) of the printed hearings, Judge Holmes frankly admitted that at the time he passed a sentence upon me in a fine of $100 and imprisonment for 30 days, he had not looked at the statute and did not know that he had passed sentence upon me in violation of the statute, and further stated that if he had looked at this statute, he would have seen that it provided for a fine, or imprisonment, but he did not. And he further stated: "I frequently sentence without looking at the statute, when I know the sentence I am going to give is small and well within the power of the court", which leaves the implication before this committee that if severe sentence should be passed by him upon an accused he would be careful to look at the statute.

Well, here is a case of a most severe sentence, of a young man with a wife and several small children, from a reputable family, who had never before been accused of any crime, where Judge Holmes passed a sentence upon him, either without looking up the law relating to sentence in such a case, or in total disregard of the law. This shows either that Judge Holmes is so incompetent and indifferent to his duties as a Federal judge, or too indolent to find out what the law is, or that he acts arbitrarily and tyrannically and in disregard of the law and of human lives.

Can this committee think of anything more horrible in this land of freedom, where the rights of our citizens are so jealously guarded and protected, than a Federal judge taking a citizen away from his loved ones and branding him with the stripes of a felon and putting him at hard labor for 3 years, thereby casting a disgrace and an odium upon the citizen and his loved ones that can never be removed, and a deprivation of his civil rights as a citizen of the United States and the State of Mississippi when the charge which he was arraigned for was only a misdemeanor?

Furthermore, the record shows, on page 83 of the official hearing in this case, that Judge Holmes was totally unfamiliar with the citation, both as to the witness statute and the statute relating to sentences in cases of contempt in the Federal court. The sentence of Jonathan Day shows that he was evidently ignorant of the statute governing sentences in liquor cases as well.

I am further reliably informed that Jonathan Day, after his arrest, was advised by an officer in Judge Holmes' court that he should plead guilty and not appear in court with counsel, as Judge Holmes was very much opposed to any person accused under the National Prohibition Act appearing in court with an attorney.

I therefore respectfully request that a subpena be issued for Jonathan Day, at Liberty, Miss., and to the clerk of the United States District Court for the Eastern District of North Carolina, Raleigh, N. C., for a copy of the entire record and proceedings in the matter of the application for a writ of habeas corpus by Jonathan Day.

I also desire a subpena issued to Mr. M. H. Daily, at Coldwater, or possibly Jackson, Miss. These witnesses and court records will show the truth of all the matters hereinbefore charged in the Day case.

I am herewith filing with this committee a certified copy of the indictment and the order of the court in the Day case.

Third, I am advised that one Garrett Longmeyer, of Amite County, Miss., was, on November 4, 1931, sentenced by Judge Holmes to the United States penitentiary at Atlanta, Ga., for 1 year and 1 day for the possession and sale of less than 1 gallon of whisky in violation of the National Prohibition Act, and that was the first offense charged against the defendant, and Judge Holmes, in that case, also sentenced the defendant to the penitentiary contrary to, and in violation of, section 91 of title 27 of the United States Code, in that he gave him a sentence to the penitentiary at hard labor for a first offense for the sale of liquor in an amount less than 1 gallon, a specific violation of the provisions of said statute, which limited the penalty in such cases to a fine of $500 or to be confined in jail, without hard labor, not to exceed 6 months, or both. Longmeyer served his sentence before he discovered that the judge had exceeded his authority in passing sentence upon him.

I respectfully request a subpena directed to Mr. Garrett Longmeyer, of Liberty, Miss.

Fourth. I am advised that on November 4, 1931, Judge Holmes sentenced one Edgar Neyland, of Amite County, Miss., to the

United States Penitentary at Atlanta, Ga., for a period of 30 months for the possession and sale of whisky, less than 1 gallon, in violation of the National Prohibition Act. Neyland served about 11 months in the penitentary and was paroled before he was advised that Judge Holmes had exceeded his powers in sentencing him to the penitentary in violation of section 91, title 27, of the United States Code, the offense charged against Neyland being his first offense.

I therefore request a subpena be issued, directed to Edgar F. Neyland, of Liberty, Miss., for his appearance before this committee.

Fifth. In the matter of Joe Ainsworth, of Smith County, Miss., who was accused of the sale and possession of whisky in an amount less than 1 gallon, Judge Holmes, on November 3, 1931, sentenced Ainsworth to the Hinds County jail at Jackson, Miss., for a period of 90 days for possession of the liquor, and sentenced him to the United States Penitentary at Atlanta, Ga., for a period of 5 years for the sale of said liquor.

Ainsworth had not been charged for an offense within 2 years prior to his conviction, and the sentence passed upon him by Judge Holmes was clearly in violation of section 91, title 27, of the United States Code, in that the sentence passed upon him sentenced him to the penitentary at hard labor for 5 years when the statute specifically provided that the penalty in such a case should not exceed a fine of $500 or confinement in jail, without hard labor, not to exceed 6 months, or both.

Ainsworth was taken to the Atlanta Penitentiary under the sentence of Judge Holmes, and remained there, at hard labor, from November 11, 1932, until September 15, 1933, when, upon the hearing of a petition for a writ of habeas corpus filed by him in the United States District Court for the Northern District of Georgia, the United States district judge for the northern district of Georgia ordered that he be returned to the custody of the United States marshal for the southern district of Mississippi to be brought before the Federal court in Mississippi (Judge Holmes' court) for resentencing upon the ground that he had been given a sentence by Judge Holmes without authority of law.

Ainsworth was remanded to the United States marshal, and on September 26, 1933, Judge Holmes entered an order by which he modified and reduced his previous sentence and directed that the prisoner serve an additional 6 months from and after September 26, 1933, when he had already served over 10 months in the penitentiary, and notwithstanding the fact that the Federal court in Georgia had remanded Ainsworth into the custody of the United States marshal of Judges Holmes' court for the purpose of having him resentenced, in accordance with the law. Judge Holmes inflicted still further punishment upon the prisoner in violation of the law. He had served over 10 months illegally in the penitentiary, which was more than the penalty which Judge Holmes was permitted to inflict upon him.

He therefore should have been promptly and immediately discharged by Judge Holmes when he appeared before him on September 26, 1933, for resentencing, because he had already served more than 6 months, which was the maximum sentence authorized by law.

I, therefore, respectfully request that a subpena be issued directed to Joe Ainsworth, at Meridian, Miss., directing that he appear and testify before this committee, and I also request that a subpena be issued to the clerk of the United States District Court for the Northern District of Georgia, for all of the records and proceedings in the matter of the petition of Joe Ainsworth for a writ of habeas corpus.

In this connection, if the committee desires to know the whole truth about the carelessness, recklessness, and tyranny, and constant disregard of the rights of the citizens of this country within his jurisdiction, especially with respect to the sentences that he has imposed as evidenced by the cases presented to the committee up to this time, if you will make an investigation of the proceedings of his court at Biloxi, Oxford, Vicksburg, Jackson, Meridian, Clarksdale, and Aberdeen, I verily believe that you will find 75 or 100 cases where he has without any regard for the law governing those cases violated the rights of the citizens of my State and passed illegal sentence upon them.

In the short time I have been making this hurry-up investigation, I have been told of other cases where he has abused his power and rights as a judge, and I have been assured that records will be sent to me within the next few days confirming the statement that I am now making.

In the above and foregoing cases, I am filing with this committee certified copies of the indictments and orders of the court, showing on their face that Judge Holmes has willfully and otherwise prostituted the powers and functions of his office with utter disregard of the rights of the citizens of my State.

I respectfully submit that the excuse that a defendant may appeal a case and by that method correct the errors committed by a Federal judge is no excuse for such errors being committed. Many citizens who are accused of crimes for the first time are totally unfamiliar with the statute under which they are accused and of the penalties which may be imposed, and any Federal judge who will pass sentence upon a prisoner, sentencing him to the penitentiary without having informed himself with the statute, is either so ignorant or careless that it is conclusive evidence of his incompetence and unfitness to become a member of an appellate court, which is called upon to review the errors committed by other Federal judges. If a trial judge is so careless and reckless and ignorant of the law in passing sentences upon defendants, and in entering judgments and decrees in his court, how can he be expected to search the records for errors with that great care and caution which all expect appellate judges to do in order to perform their full duty as judges of an appellate court?

A man who looks so lightly upon his own errors cannot be expected to look with any degree of severity upon errors committed by other judges.

I stated in my opening statement to this committee that Judge Holmes is personally obnoxious to me. He is personally obnoxious to me not only because he passed an illegal sentence upon me directly contrary and in violation of the law, but he is personally obnoxious to me because of his carelessness, recklessness, and tyrannical conduct upon the bench in passing sentences upon ignorant and penniless citizens of the State of Mississippi, in violation of their statutory and constitutional rights, inflicting upon them ignominy and shame and depriving them of their civil rights as citizens of the United States and of the State of Mississippi, contrary to the law.

I, therefore, feel that I would be violating my oath of office as a Senator of the United States to support and defend the Constitution of the United States if I did not object to the confirmation of a man whose own admissions and whose judgments show that he has either willfully or through incompetence violated his oath of office to defend the laws and the Constitution of the United States.

As stated to you in a previous letter, Judge Holmes was either so ill-informed or indifferent as to the law and his duties that at the February 1935 term of his court at Biloxi, Miss., he sentenced quite a bunch of prisoners and sent them to jail. Afterward these prisoners had to be brought back to open court and all resentenced. I am not advised as to the crimes for which these prisoners were convicted, neither am I personally advised as to the sentences imposed illegally at first, and neither do I know personally the final sentences imposed, but these facts can be substantiated by attorneys present at this term of court and by the district attorney and the clerk of the court.

I am, therefore, asking you to issue a subpena for Attorney A. Y. Harper, of Jackson, Miss., who is assistant district attorney there, and B. L. Todd, Jr., clerk of the court, at Jackson, Miss.

I have insisted from the beginning of this hearing, and still insist, that in order for this committee to know and fully appreciate the utter disregard, indifference, recklessness, and favoritism displayed by Judge Holmes in the exercise of his powers and functions as a judge that it is imperative that your honorable committee make an honest-to-goodness investigation of the unthinkable, indefensible, and unconscionable dissipation of the assets of the First National Bank of Gulfport and the First National Bank in Gulfport.

This national-bank institution, before its crash, under the administration of Mr. Jaygoe, who now holds an important position in the Treasury Department here in Washington, was considered one of the strongest banking institutions in Mississippi. It had over 6,000 depositors. The laboring man's life savings, the widow's every dollar, the farmer's meager savings throughout a lifetime for his old age, the young man's savings to finish his college education—in fact, the bank enjoyed such a wide and substantial reputation for stability that its depositors came from all walks of life in many counties of south Mississippi.

The stock in this bank was owned and controlled by many people of reputed great wealth, some of them even in the millionaire class, and the stock was owned and the bank controlled by the high and mighty of the political world.

Right here I want to ask the committee to issue a subpena duces tecum for Hon. J. F. T. O'Connor, comptroller of the currency, directing him to bring before this committee a list of the assets and liabilities of these two banks, giving the names and addresses of all parties and the amount owing by each.

There were so many rumors of fraudulent and shady deals and transfers immediately following the closing of this institution that the depositors held a mass meeting and selected a committee from their ranks to make investigations and to attempt to protect their rights. When this committee, headed by Hon. J. F. Galloway, of Gulfport, asked permission to investigate the list of stockholders and the list of those who had been permitted to take from the bank the money of the depositors, this committee was told they might come into the bank, but they denied them the privilege of taking paper and pencils, and were positively prohibited from making any notes while looking into the list of debtors to this bank, and to its assets and liabilities.

I am submitting herewith for your consideration a letter from the chairman of the depositors' committee, addressed to the ex-mayor of Biloxi, Hon. Hart Chinn, and also a brief statement showing the loans of the directors, officers, and to corporations owned and controlled by such directors and officers of these banks. This statement shows that 75 percent of the directors and officers, owning less than $30,000 worth of stock, had borrowed $131,203.80 which is approximately $4.50 for every dollar's worth of stock that these officers and directors owned in the bank.

In the liquidation of the assets of this bank, under the absolute direction of Judge Holmes, the disposition of the assets of the bank and the release of those who owed the bank and were abundantly able to pay both their stock liabilities and for notes due and owing the bank, such gross favoritism was shown, authorized, and permitted by the court, that this committee, I am sure, would hesitate to recommend Judge Holmes' promotion if it knew the truth of this miserable story of financial tragedies.

I am having certified copies of many of these questionable deals made from the records at Gulfport, and had expected to have them here this morning as they were to be mailed at Gulfport

on Friday night, and I will file these with the committee either this afternoon or tomorrow, as I confidently believe I will receive them today.

Just after this bank closed an agent of the Department of Justice uncovered the theft, or embezzlement, of about $10,000 by one of the bank's officers by the name of Searle Hewes, who was highly connected in the social and political life of Gulfport and Harrison County. The grand jury indicted this party for this embezzlement of the depositors' trust funds in this national bank, and Mr. Hewes plead guilty, offering no excuse nor mitigating circumstances. It was a straight-out positive theft of the bank's money, but, because of the political and social prominence of this party and because of political pressure or influence, Judge Holmes sentenced him and then sent him on his way rejoicing with a suspended sentence.

Other citizens of this district can sell a pint of whisky, and he sent them to the penitentiary for 1, 2, 3, and 5 years, where they were put at hard labor; but this gentleman of social and political standing, who had perhaps taken the widow's last dollar and caused the poor laboring man's children to cry for bread and almost go naked on the streets of Gulfport, yet he goes free.

A certified copy of the indictment, sentence, and order of the court in this case will be filed with the committee just as soon as these bank papers can be gotten from Gulfport, which were mailed, I understand, Friday night.

I am going to ask the committee to permit me to file a list of the names of the witnesses to establish all these facts in connection with this bank matter sometime today or tomorrow. I am asking those who are making these investigations for me to give me the names of these witnesses by whom all these facts can be proven.

I cannot conclude this petition without again pleading with the committee to compel Judge Holmes to furnish a list of my personal and political friends who had informed him that heretofore I approved of his appointment and would look with favor upon his confirmation. Judge Holmes vainly tried to put me in a false light before this committee by making this boast, when I know and he knows it is untrue, and I want the committee to give me an opportunity to prove to you that his statements are not true—that his statements are not dependable—that in many respects he is totally irresponsible. If I am not mistaken, in the issue before this committee, this kind of proof is vitally material, affecting the fitness, worthiness, and qualifications of Judge Holmes on the question of his promotion in the judiciary.

In conclusion, I want to assure this committee that I have spared neither time, effort, nor expense in endeavoring to assist the committee in ascertaining the true facts about Judge Holmes.

In your letter of February 3 you asked me to give the names of witnesses and what I expected to prove by them. I have honestly tried to carry out your suggestion, and I assure this committee that if you will reopen this hearing and have the witnesses, whose names I have suggested, before you and secure the additional documentary evidence which can be brought before this committee, and make the investigations suggested, that you will be convinced of the verity of practically every statement I have made. This is a very serious question to be decided. It is important in the interest of justice and good government. There is no need or cause for haste. This session of Congress will be continuing for many weeks. Let us work together and find out the whole truth. I have nothing to conceal. Judge Holmes is not entitled to a promotion, and with the cooperation of this committee there won't be a "doubting Thomas" left when we get to the bottom of the whole matter.

I respectfully ask that this petition and the documentary evidence filed herewith, together with certified copies of the bank records that I expect to file as soon as I receive them, all be made a part of this record, regardless of the decision of the committee. I shall ask permission to discuss this petition and these records if this matter ever reaches the floor of the Senate.

I renew my request to be heard by the whole committee.

With appreciation for your kindness and forbearance, I am,

Respectfully yours,

THEO. G. BILBO,
United States Senate.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
February 17, 1935.

Additional and supplemental matters to petition filed by Senator THEO. G. BILBO asking for a reopening of the hearing in the matter of Judge Edwin R. Holmes' confirmation before the Subcommittee of the Judiciary in the United States Senate

Gentlemen of the committee, in my petition to you dated February 17 I made mention of the fact that I was expecting immediate delivery of additional documentary proof bearing on the question of Judge Holmes' fitness and qualifications as a result of the reckless, unwarranted, and unconscionable dissipation of the assets of the First National Bank of Gulfport, Miss., and the First National Bank in Gulfport, Miss., by his orders of settlement, to the great harm and pecuniary loss of the 6,000 depositors of these banks.

I am submitting herewith certified copies, six of the several hundred settlements approved by Judge Holmes. By a careful analysis or perusal of these petitions and approving orders of the court you will get a slight conception of just how much favoritism and preference was shown by Judge Holmes to the high, mighty, and wealthy in these banks.

The last hope of these 6,000 depositors rested in the judge of the district Federal court. Judge Holmes alone had the power to say to the receiver that these men of wealth and influence—men and women who were abundantly able to make good their obligations to the depositors or to the banks—shall not be forgiven of their debts, and because of Judge Holmes' recklessness, indifference, or favoritism the unfortunate depositors of these banks had to suffer the loss—in many cases the savings of a lifetime.

Please permit me to direct your attention to a careful study of these records.

Hon. Hart Chinn, ex-mayor of Biloxi, Miss., through whose kindness and assistance these certified court documents have been furnished me, has made some timely observations to assist me, pointing out in each instance the gross negligence on the part of Judge Holmes in giving his permission to each of these settlements and thereby finally releasing debtors to these banks who were abundantly able to pay in full.

I am also filing with this supplement the court record certified to in the case of Searle Hewes, who robbed the bank and, upon a plea of guilty, was given a suspended sentence of only 3 years. I am informed that this indictment of 10 counts covered only a part of the debt and cold-blooded theft of the depositors' money. As a matter of fact, I understand that his embezzlement amounted to over $10,000.

I want to ask the committee to issue a subpena to Hon. J. L. Galloway, chairman of the depositors' committee, and Hon. R. C. Edwins, P. H. White, and A. E. Kramer, all of Gulfport, Miss., and all members of the depositors' committee. Through these gentlemen I expect to prove many of the details of how the assets of these banks have been dissipated by orders of Judge Holmes. If you will bring these gentlemen, who are outstanding and reputable citizens of Gulfport, Miss., before you, you will in part expose the most shameful and shocking series of fraud ever practiced upon the unfortunate depositors of a failed bank, in this case amounting to over 6,000 in number.

I also want to ask for a subpena for Herman Phafhausen, of Handsboro, Miss. I expect to prove by this gentleman, who is a citizen of unquestionable integrity, how officers of the court and others prevented defrauded depositors from appearing before the grand jury at Biloxi, Miss., to bring justice to parties guilty of perpetrating criminal fraud upon the defenseless depositors of these banks.

I also want a subpena duces tecum directed to Hon. B. L. Todd, Jr., clerk of the district court and custodian of the records of the court, to appear before this committee and bring with him all the court records and copies of petitions and other transactions connected with the settlement or liquidation of the assets of the First National Bank of Gulfport and the First National Bank in Gulfport.

Neither time nor expense should be spared in determining the truth about the affairs of this bank and the dissipation of its assets with the knowledge and by the orders of Judge Holmes. It should be done as a matter of simple justice to the 6,000 depositors.

I want to again assure the committee that I am doing and have been doing everything that time would permit to assist the committee in knowing the truth, in order that a righteous conclusion can be reached in this very important matter.

Respectfully submitted.

THEO. G. BILBO.

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
February 21, 1936.

Senator EDWARD R. BURKE,
Senator KEY PITTMAN,
Senator WARREN R. AUSTIN,
Members of the Subcommittee of the Committee on the Judiciary Investigating the Matter of the Confirmation of Judge Edwin R. Holmes.

GENTLEMEN: Since your notice over the telephone to me a few minutes ago that you contemplate calling your committee together for the purpose of taking only the testimony of Judge T. Webber Wilson, and that you would also take the testimony of the former United States Senator Hubert D. Stephens, evidently on one of the many matters that I have charged against Judge Holmes in my letter, or petition, on February 17, together with the addenda thereto, I am constrained to plead with the committee to the extent of seriously objecting to such a reopening or rehearing of the case, unless the case is reopened for an investigation of all the charges made, and of any other charges, or such matters as I desire to present before the time set for such reopening or rehearing, and such matters as may arise as a result of the matters developed in the hearing.

Please do not understand me as attempting to suggest or control the action of the committee in any procedure that, in its good judgment, it should decide upon, but I feel that, upon reconsideration, you will appreciate the righteousness of my contention in objecting. You could readily see how manifestly unfair it would be to pick out one or two matters upon which to reopen the case, and deny an opportunity to furnish evidence on matters and charges far more vital and material than the one item upon which you propose to examine Judge Wilson and ex-Senator Stephens.

Since you telephoned me I have attempted to contact Colonel Wooten, who was Wilson's campaign manager at the time Judge Wilson was making the race for the Senate, and the only witness whose name I have given that was present and heard the joint debate between Judge Wilson and Senator Stephens. Of course,

you appreciate the fact that Wilson and Stephens were the participants in the debate. I was anxious to have Judge Wilson's campaign manager testify, but I find that Colonel Wooten was called to Hattiesburg, Miss., several days ago, which is his former home, and will not return to this city until one day next week.

Trusting that you gentlemen will fully appreciate the spirit in which this communication is written and that you will appreciate the correctness of my position, I beg to remain,

Yours respectfully,

THEO. G. BILBO,
United States Senator.

Mr. BILBO. I named Jonathan Day, Mr. Longmeyer, Mr. Neyland, and Mr. Ainsworth as four who had been indicted for misdemeanors in connection with violation of the liquor law, and the judge, in violation of the reviewing court's opinion, had pronounced these men guilty of felony and sent them to the penitentiary. The condition got so bad, and it is so bad, that when these men were sent to the Federal penitentiary at Atlanta, their homes wrecked, and the lives of their children blighted because of this illegal and unlawful and "heroic" treatment which Judge Holmes is giving them down in Mississippi, somebody suggested to them that the judge had certainly violated the law, and that if they would apply for a writ of habeas corpus in the United States district court in Atlanta, Ga., they might get justice; but they could not get it in Mississippi. So one of the men who had been sent to the penitentiary because of Judge Holmes' lack of a judicial mind and understanding of what the law is, applied for a writ of habeas corpus.

I desire to read to the Senate the opinion of Judge Underwood, who discusses the case. I am going to take time to read to Senators this opinion of Judge Underwood, passing upon the act of Judge Holmes, this man who has such a splendid preparation for the appellate court of our country.

Petitioner, on April 18, 1932, pleaded guilty to an indictment of two counts, charging him with having, on January 11, 1932, unlawfully possessed and sold "intoxicating liquor, to wit, whisky", without setting forth any particular amount of whisky so possessed and sold.

The indictment did not charge a gallon or more. It did not charge that he was an habitual violator of the law.

He was, on the same day, sentenced to be confined in the United States Penitentiary at Atlanta, Ga., "for a period of 1 year and 1 day from the date of his delivery"—

Judge Holmes generally gives them from 2 or 3 to 5 years—

and was received at the penitentiary and began the service of the above sentence on April 24, 1932.

On November 17, 1932, petitioner filed an application for a writ of habeas corpus, praying for his discharge from respondent's custody on the ground that the sentence was void, because in excess of what could be lawfully imposed under the amendment of January 15, 1931, to the National Prohibition Act.

And he filed his habeas corpus predicating his defense upon the act of Congress that was passed on the 15th of January 1931, a law which my friend, Judge Holmes, never seemed to have been able to find out about. He does not even now know that it is the law.

The pertinent parts of the amendment are as follows:

That any person who violates the provisions of this title, in any of the following ways: (1) By a sale of not more than 1 gallon of liquor as that word is defined by section 4 of this title: *Provided, however,* That the defendant has not theretofore within 2 years been convicted of a violation of this title or is not engaged in habitual violation of the same; * * * shall for each offense be subject to a fine of not to exceed $500 or to be confined in jail, without hard labor, not to exceed 6 months, or both.

Omitting the caption, the indictment was in the following language:

"The grand jurors of the United States, impaneled, sworn, and charged at the term aforesaid of the court aforesaid, on their oath present, that on or about the 11th day of January 1932, in the county of Washington, in the western division of said district, and within the jurisdiction of said court, William Pace did knowingly, willfully and unlawfully possess intoxicating liquor, to wit, whisky fit for use and intended for use for beverage purposes, said act being then and there prohibited and unlawful; and being further in violation of and otherwise than as authorized or permitted by the National Prohibition Act, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

"Count 2. And the grand jurors aforesaid, on their oath aforesaid, do further present, that the said William Pace on the 11th day of January 1932, in the county of Washington, in the western division of said district, and within the jurisdiction of said court, did knowingly, willfully and unlawfully sell intoxicating liquor, to wit, whisky fit for use and intended for use for beverage purposes, said act being then and there prohibited and unlawful; and being further in violation of and otherwise than as authorized or permitted by the National Prohibition Act, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States."

While the indictment is in two counts, the first alleging the unlawful possession and the second the unlawful selling of the whisky, the first count is not material, since the penalty for unlawful possession is a fine only, and could not support a penitentiary sentence; so that no fine having been imposed, the sentence, if valid at all, must be supported by the second count.

The question presented is, then, whether an indictment for the sale of whisky, brought under the Prohibition Act as amended January 15, 1931, for an offense committed after January 15, 1931, which fails to allege that the amount of intoxicating liquor involved is more than 1 gallon, will support a sentence greater than the maximum authorized by said amendment, and directing imprisonment in a penitentiary.

Under the Jones law (45 Stat. 1446), prior to its amendment, the quantity of the liquor sold was immaterial, and the same sentence, up to a maximum of 5 years in the penitentiary, could be imposed whether the amount involved was 1 or 100 gallons. There was a provision which informed the courts that it was "the intent of Congress that the court, in imposing sentence hereunder, should discriminate between casual or slight violations and habitual sales of intoxicating liquor, or attempts to commercialize violations of the law."

This proviso, however, was "only a guide to the discretion of the court in imposing the increased sentences for those offenses for which an increased penalty is authorized by the act." * * * Apparently sentences under the Jones law, despite the expressed intent of Congress, oftentimes were so severe for minor offenses or by Congress thought to be, that this wide discretion left the judges was restricted by the amendment of January 15, 1931, which undertook to classify as casual or slight violations all transactions involving 1 gallon of intoxicating liquor or less, provided the defendant had not, within 2 years, been convicted of violating the National Prohibition Act and was not a habitual violator, and fixed the maximum term of imprisonment at 6 months in jail, which, of course, could not be served in a penitentiary.

The circuit court of appeals for the seventh circuit, in the case of Foster against United States, says: "The recent act (Jan. 15, 1931) amending this proviso by fixing lesser maximum penalties for minor offenses would persuasively suggest that thereby Congress intended to substitute definite maximum penalties for the merely advisory or recommendatory phrasing of the original proviso."

This amendment carved out certain offenses from the Jones law and made them misdemeanors, leaving the others punishable as felonies. There could not be included in the latter class any case which falls in the misdemeanor class, and any sentences imposed in the last-mentioned class which exceed the maximum penalty provided by the amendment, or provide for the service of such sentences in a penitentiary, would be void as beyond the jurisdiction of the court and subject to be set aside on a habeas corpus proceeding.

This being true, the indictment must allege, as essential elements of the offense, the fact that more than 1 gallon of liquor is involved or that defendant has been convicted within 2 years of violation of the act or was engaged in habitual violation of same. If such allegation is not made, the indictment will be held to allege the lesser offense only, and any sentence providing for imprisonment in a penitentiary or in a jail beyond the maximum term provided by the amendment would be void.

That is exactly what Judge Holmes is doing. He has done it not only in one case, but he has done it in hundreds and thousands of cases. When we look over the penitentiary walls at Atlanta today we see men wearing felons' stripes and working in the penitentiary of the United States who are guilty only of misdemeanors, just because we have a judge who does not even understand the statute when he reads it or is unwilling to apply it if he should understand it.

The court continued:

In such cases habeas corpus is the proper remedy. * * * The defendant has a right to be informed by the indictment as to whether he is charged with a misdemeanor, with a maximum imprisonment of 6 months in jail, or a felony, with a maximum imprisonment of 5 years in a penitentiary.

Senators who are lawyers know that is the fundamental law of the land, that a man charged with a crime should know by the indictment with what he is charged so he may know what defense to prepare.

The proof by which a charge is sought to be sustained does not constitute the crime. It is the charge made in the information

or indictment that determines the character of the crime and not the evidence by which the crime is proved.

A plea of guilty is a plea only to the offense legally charged in the indictment, and, where the indictment may be sufficiently specific, in the absence of a demand for bill of particulars to support a sentence for a lesser offense, but not for a greater offense described in the statute, the indictment must be held to charge only the lesser offense.

It is necessary that the allegations bring the accused clearly within the intent of the statute prescribing the additional punishment. In this respect the charge must be definite and certain. So if such is a statutory element, it must appear that the offense was committed after a prior conviction, and where the statute provides that the additional punishment shall be imposed where defendant has before been sentenced, it is necessary to allege the sentence, but not merely that the accused has been convicted. * * * A prior conviction should be alleged directly and not by recital.

It appearing in this case that the maximum penalty which could have been legally imposed upon petitioner is a fine of $500 on the first count and imprisonment in jail for 6 months or a fine of $500, or both, on the second count, and it appearing that petitioner has already served in the penitentiary more than the maximum time that could have been legally imposed, even if 6 months' imprisonment and two fines of $500 each has been imposed, and 30 days' service for nonpayment of each fine had been required, the writ is sustained and petitioner ordered discharged from the custody of respondent.

In other words, the petitioner was released from the custody of the warden of the penitentiary.

That was the case where Mr. Pace filed his writ of habeas corpus in Judge Underwood's court at Atlanta and was very promptly discharged.

I now have the same case entitled *Aderhold* v. *State* (65 Fed. Rep., second series, 790). Senators may ask why I read the same case. The opinion which I have just read is the opinion of Judge Underwood, who is the district judge holding a position similar to that held by Judge Holmes in the judiciary. That was the opinion he wrote in releasing Pace from a wrong sentence, an illegal sentence, and outrageous sentence imposed by Judge Holmes. The district attorney prosecuted an appeal from Judge Underwood's judgment. Issue was taken with Judge Underwood. Here is the opinion of the Circuit Court of Appeals of the Fifth Circuit, and one of the strange things about it, just a coincidence, is that Judge Nathan P. Bryan, the man whose shoes Judge Holmes is seeking to get into, was the man who wrote the opinion that condemned the unfitness of Judge Holmes in this case. Listen to what Judge Bryan says. He passed away last August, but he concurred in this opinion with two other circuit judges. I read:

This is an appeal by the warden of the Atlanta Penitentiary from an order granting the writ of habeas corpus and discharging William E. Pace, a prisoner, from custody. On his plea of guilty to an indictment which charged him with unlawfully selling on January 11, 1932, "intoxicating liquor, to writ, whisky", but without alleging the quantity sold, Pace was sentenced to imprisonment in the penitentiary for the period of 1 year and a day. After serving more than 6 months, he sued out a writ of habeas corpus, contending that the sentence in excess of 6 months was void, as it was held to be by the district judge.

We think the decision was correct. Under the National Prohibition Act the maximum imprisonment authorized for the first offense of selling was 6 months. By the Jones Act of March 2, 1929, it was increased to 5 years regardless of quantity; but by the amendment of January 15, 1931, the maximum punishment originally provided for a first offense in the event of a sale of not more than 1 gallon was restored, and was in force in 1932 when Pace made the sale on account of which he was indicted. Before the amendment of 1931, the severity of the sentence did not necessarily depend on the quantity of liquor sold, and it was therefore held that the quantity need not be alleged in the indictment. * * * But since the adoption of that amendment the quantity alleged to have been sold becomes of vital importance to the defendant. If he sells a gallon or less, he has committed a misdemeanor and cannot be punished by imprisonment exceeding 6 months in jail; whereas if he sells more than a gallon, he has committed a felony, and can still be imprisoned for 5 years in the penitentiary. The indictment ought, therefore, to allege whether the sale was of a gallon or less, or of more than a gallon. Without such an allegation the trial court has no guide for determining the maximum punishment which he is authorized by law to impose.

Judge Holmes did not confine this to one case. He sent people to the penitentiary by the carload. Some people from some of the best families in my State are today branded with the name of "felon" because of this judge's indifference, indolence, carelessness, viciousness, recklessness—I do not know what—but, whatever it is, it certainly unfits him to be put on the appellate bench to review the action of other judges and other courts.

The mere sale of liquor is a misdemeanor; the sale of more than a gallon aggravates the offense into a felony. Any aggravation of an offense for which the law authorizes an increase of punishment must be stated in the indictment.

That is Bishop.

Mr. Bishop also says that to punish one for all of a crime where only a part of it is charged is to punish him without accusation. So far as we are aware there is no authoritative decision to the contrary. Certainly it cannot fairly or justly be said that Pace, because he pleaded guilty to a charge of selling an unnamed quantity of intoxicating liquor, thereby admitted he had sold more than a gallon.

The order appealed from is affirmed.

I am going to make out a case against Judge Holmes for sending hundreds and thousands of my people to the penitentiary in violation of this Federal statute, in violation of the decisions of the courts. I do not have to use bootleggers as witnesses. I can produce before the committee, down yonder in the committee room, eight Federal judges who will tell you, gentlemen of the committee, and will tell the Senate, and will tell the world, that Judge Holmes has openly and flagrantly violated the laws of Congress and has flown into the face of the decisions of the courts.

Here is the case of Olivito against United States, found in Federal Reporter, second series, volume 67. This is a case that arose away out West, in the ninth circuit—one of these same cases. This is what the court said:

It is true the court may have had at hand other facts, not shown by the record, tending to establish habitual violation; but under the present law the discretionary power has been removed and the court is empowered to sentence only upon the findings of a jury, based upon appropriate allegations of the indictment.

That is all I need to read in that case, because after a full discussion of the same class of cases the court holds that the indictment must charge the offense for which the defendant is sentenced. In other words, under the act of Congress passed on the 15th day of January 1931, if a man is indicted for violation of the liquor law, the indictment must show that he has sold more than a gallon, the indictment must show habitual violation; and, if it does not, any judge who dares to send that man to the penitentiary does so in open violation of the direct, positive mandates of the law of this Nation and flies in the face of the opinion of the appellate courts of this country.

When I had Judge Holmes on the stand, trying to find out by what mental processes this man had construed the laws of Congress and had interpreted the decisions of the court, and why it was that he was sending hundreds of my constituents to the penitentiary in open violation of the law, I said, "Why are you doing it?" Listen to what he said:

I was relying, and still rely in support of those sentences on the case of *Husty* v. *United States*, in Two Hundred and Eighty-two United States Reports, page 694.

The Husty case came up from the State of Michigan. A man was indicted for selling whisky in Michigan, strange to say; and the case went up to the circuit court of appeals, and then, by special writ, was brought up to the Supreme Court of the United States. Mr. Justice Stone delivered the opinion in the case, and he makes it very clear. Let me take a moment of your time to read this, because here is where Judge Holmes hangs his hat, and here is where he has left the laws of Congress and flies in the face of the decisions of the courts of the country.

Judge Stone says:

The indictment is in the form authorized by section 32 of the National Prohibition Act. It charges the transportation of intoxicating liquor as a first offense by both petitioners, and possession as a first offense by Laurel, and as a third offense by Husty, at a named time and at a place within the jurisdiction of the court. Failure to state more specifically the amount of the liquor and the time and place of the offenses charged does not affect the validity of the indictment. It was, at most, ground for a bill of particulars if timely application had been made.

It is urged that the indictment is defective because it fails to state whether the offenses charged were felonies or misdemeanors and whether the petitioners were charged with casual or slight violations or habitual sales of intoxicating liquor or attempts to commercialize violations of the law, which, petitioners argue, were made new or aggravated offenses by the Jones Act.

The court is talking now about the Jones Act of 1929:

But the Jones Act created no new crime. It increased the penalties for "illegal manufacture, sale, transportation, importation or exportation", as defined by section 1, title II, of the National Prohibition Act, to a fine not exceeding $10,000 or imprisonment not exceeding 5 years, or both, and added as a proviso, "That it is the intent of Congress that the court, in imposing sentence hereunder, should discriminate between casual or slight violations and habitual sales of intoxicating liquor or attempts to commercialize violations of the law." As the act added no new criminal offense to those enumerated and defined in the National Prohibition Act, it added nothing to the material allegations required to be set out in indictments for those offenses. The proviso is only a guide to the discretion of the court in imposing the increased sentences for those offenses for which an increased penalty is authorized by the act.

That is the law as laid down by the United States Supreme Court, interpreting, explaining, justifying the action of Congress in enacting the Jones Act of 1929. That was the law as finally adjudicated by the highest tribunal of the country. But when Congress appreciated the fact that judges had gone wild, and that they were abusing this discretion, and imposing sentences running all the way up to $10,000 fine and 5 years' imprisonment, Congress, on January 15, 1931, said that certain acts shall be misdemeanors in violation of the prohibition law, and these misdemeanors must be charged as facts; and if a misdemeanor is charged, and a man pleads guilty, then no court has a right to take ex-parte testimony and elevate that crime into something other than the one charged in the indictment.

That is what this judge has done in the cases of thousands of my people. I say "thousands" because his clerk said the other day that they had 2,000 such cases a year, and he has been at it since 1931. That is 5 years, and that would be 10,000 cases. Thousands of my people, good people, men, who come from good families, who have gone astray—just because a man makes one mistake in life is no evidence that he is totally bad, and men from the best of families make mistakes—these men who had violated the law, grant you they did, were entitled to the protection of the law. They were indicted by the district attorney for a misdemeanor, charged with a misdemeanor, pleaded guilty to a misdemeanor, were convicted of a misdemeanor; and this judge, in open defiance of the act of Congress of 1931 and the opinions of all the courts, has sent these men by the trainload to the penitentiary, wrecking the men, wrecking their homes, wrecking their families, and branding them for life as felons.

That is what he has been doing, that is what he is doing, and that is what I have been asking the committee to allow me to show.

It was said that I had some old bootleggers I desired to produce. I wired the clerk of the court at Atlanta a few days ago to send me a list of the cases where the poor devils had found out that Judge Holmes had put up a job on them. He immediately sent me a certified copy of just what had happened down there. This is what he sent:

In the District Court of the United States for the Northern District of Georgia

I, J. D. Steward, clerk of the United States District Court for the Northern District of Georgia, do hereby certify that the records of the District Court of the United States for the Northern District of Georgia disclose the following facts with reference to sundry habeas-corpus cases instituted in said district court, to wit: 337, J. Will Culpepper; 448, Everett S. DePew; 574, H. T. Holland; and 637, Joe Ainsworth, sentenced in the southern district of Mississippi, were ordered returned to the court of original jurisdiction for resentence, and 405, Edgar Neyland; 478, Louis A. Redmond; 535, William Earl Pace; 536, Arthur Austin; 539, Collin Ladner; 541, Melvin J. Simmons; 599, Johnnie Wells; 607, Steve Taylor; and 1042, Leroy Talbert, were discharged on habeas corpus. I further certify that the case of William Earl Pace, no. 535, was affirmed on appeal.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said district court, at Atlanta, Ga., this the 11th day of March, A. D. 1936.

[SEAL] J. D. STEWARD,
Clerk, United States District Court,
Northern District of Georgia.

I also wish to include a statement showing the dates of the indictments and dates of sentence in each case.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

No.	Petitioner	Indictment filed	Date sentenced
337	J. Will Culpepper	Mar. 23, 1932	May 3, 1932
448	Everett S. DePew	June 13, 1932	June 13, 1932
574	H. T. Holland	May 8, 1929	Nov. 21, 1930
637	Joe Ainsworth	Feb. 17, 1931	Nov. 3, 1931
405	Edgar Neyland	Nov. term, 1931	Nov. 4, 1931
478	Louis A. Redmond	May 12, 1932	June 9, 1932
535	William Earl Pace	Feb. 17, 1932	Apr. 18, 1932
536	Authur Austin	May 3, 1932	May 5, 1932
539	Collin Ladner	Feb. 16, 1932	June 9, 1932
541	Melvin J. Simmons	do.	June 14, 1932
599	Johnnie Wells	May 3, 1932	May 4, 1932
607	Steve Taylor	Mar. 23, 1932	Oct. 5, 1932
1042	Leroy Talbert	Sept. 20, 1932	Sept. 23, 1932

Mr. BILBO. Mr. President, before the committee Judge Holmes explained this strange and unusual process by which, in defiance of the law, in defiance of the statute, in defiance of the opinions of two circuit courts of appeals—one in California and one in the fifth district—he has carried on his inquisition. He says that when a man comes into court and pleads guilty, regardless of what is charged in the information, he holds a kind of an ex-parte performance. He said he did not know whether those who testified were sworn or not, and he left the record that way—"I would not want to say whether they were sworn or not."

He brings in prohibition agents; first the head man, who sits in an office in Jackson, and this man who has letters, who has complaints, who has nothing but a bundle of hearsay testimony, and after all this hearsay stuff has been accumulated by this head prohibition man from the enemies of the man who is charged, and from the chronic kickers in the community, and from every other source, he unloads that upon the defendants in an ex-parte way, hearsay evidence, and with that hearsay evidence he elevates the crime from that of a confessed misdemeanor to a felony, and sends the man to the penitentiary. He says, "In doing that I am relying upon the opinion of the Supreme Court of the United States as announced in the Husty case", which permitted that kind of monkey business; and he says, "I relied then and I still rely upon it"; and he does not know that Congress has changed the law.

He says he found out that Congress had changed the law about a subpena 40 days after it passed the law, when he wanted to put BILBO in jail, but he has not yet found out, in 5 years, that Congress has done away with his method of sending people to the penitentiary illegally and unlawfully.

Some Senators may say, "Well, it would not do to vote against the confirmation of a judge just because he sent some bootlegger to the penitentiary." Granting that to be true, do not Senators think that the rights and liberties of the people of this country mean something to the United States Senate? If this judge did what he is charged with doing, then he is disqualified, he has not a judicial mind. He is either too ignorant to find out what the law is, or he would not know the law when he found it. In my case, he was too lazy to find out what the law was, and I think that might be true in these liquor cases. A lazy judge has no business on the appellate bench in this country.

The records I offer to exhibit cannot be brushed aside. If the Senate will send this case back to the committee, and the committee will permit me to furnish a list of the witnesses, I will bring reputable witnesses, I will bring the judges themselves, and I will prove beyond any reasonable doubt that this judge has made victims not only of the hundreds he has sent to the penitentiary, who have already gone there, and, in their ignorance, have served their sentences and gone away with the stripes on their records forever, but others will be found in the penitentiary now, because Judge Holmes says, "I am still pursuing that policy. I am still relying upon the Husty case."

Before concluding my remarks I wish to direct attention to the report of the subcommittee of the Committee on the Judiciary. I desire to make some observations on this report, and I do so because the report has been given to Senators to read.

The report is not signed by the committee. It is signed only by the chairman. I take it that the subcommittee joins

in the general conclusions reached, but the verbiage is that of my distinguished friend the junior Senator from Nebraska.

On page 1 he says:

> The committee sat for 3 days and examined a considerable number of witnesses, some of whom were subpenaed at the request of the junior Senator from Mississippi, and the other witnesses appeared voluntarily.

I have already directed the Senate's attention to the fact that with all this hearing, the junior Senator from Mississippi has been permitted to have subpenaed only four witnesses, and one of those turned traitor, and there have been brought before the committee witnesses and affidavits in behalf of Judge Holmes to the number of 23. Does that look like a fair and square investigation?

There are still charges pending, and I have put those charges in the CONGRESSIONAL RECORD, and I desire the people of Mississippi and Members of the Senate to read them. I desire to know if the Senate would be willing to confirm a man in the face of those charges without any opportunity being given to establish them here. The mere explanation of Judge Holmes will not satisfy. The mere cumulative evidence of his clerk, Mr. Todd, will not satisfy. As a United States Senator, I am standing here and telling the Senate that I can establish these charges. After I have been permitted to do it, it will be up to the Senate to say whether or not to disqualify this judge.

The chairman of the subcommittee says:

> After the hearings were concluded, the junior Senator from Mississippi requested in writing that the hearings be reopened so that further evidence could be taken. He presented a list of names and a statement of what he expected to prove. This was done at the request of the subcommittee. A further hearing was held, but only one witness named by the junior Senator was requested to appear. The committee then felt that all of the material evidence was presented and that no good would be accomplished by continuation of the hearings.

"No good"! In other words, by that statement the chairman of the subcommittee is willing to say that the things I charge against Judge Holmes would not disqualify the judge. When I charge that he violated the law repeatedly—one hundred, five hundred, yea, a thousand times—and that innocent people by the hundreds and the thousands have been sent to the penitentiary in violation of the law and the opinions of the courts of this country, the committee does not think that amounts to anything. That is what the committee says in its written report.

> The overwhelming weight of the evidence presented is to the effect that Judge Holmes is preeminently qualified to fill the position to which he has been nominated.

If you keep the witnesses away, you will not have any evidence. They keep my witnesses away, and, as a result, they say the evidence is strong for Holmes. But if you let the case go back to the committee, and let me bring the witnesses here, you will read the next time a different report from that of my distinguished friend from Nebraska.

> This is the unanimous judgment of the subcommittee, which had the benefit of seeing and hearing Judge Holmes in person.

He mesmerized them. He is not the same judge I saw down at Oxford on the 16th day of April 1923. I was told all along that the question of personal objection would cut no figure in the action of the subcommittee.

On page 4, I call attention to the observation of the distinguished chairman of the subcommittee with respect to the resolution of the State Legislature of Mississippi, at which time he says I was Governor:

> The record shows that the resolution endorsing the appointment of Judge Holmes to the fifth circuit court of appeals to fill a vacancy then existing, was unanimously adopted by both houses of the Legislature of Mississippi, and that the friends of Governor BILBO exercised the controlling voice in the legislature.

I desire to be perfectly frank with the Senate, Mr. President. I knew nothing of this resolution until it was presented before the committee here in Washington. I had never heard of it.

It amounted to nothing. It effected no result. The Republicans were in power in Washington. It was during the second session of my legislature. The house was organized against me. The senate was with me, it is true. In those hectic closing days in the Governor's office—and some Senators have been Governors and know what it means—this resolution did pass. When I stated to the committee that I had no recollection of it, and never heard of it, my friend from Nebraska said he had great trouble in reaching the conclusion that I did not know anything about it. Senators will understand that he is laboring to believe me. Of course, I am sorry for the mental processes through which he must pass.

However, in order to satisfy myself, and in order that Senators may know, I sent a telegram to two of the ex-Governors of Mississippi who understand our procedure down there and know how these things happen and how they come about. I desire to read the telegrams to the Senate:

> Hon. THEODORE G. BILBO,
> *United States Senator:*
> Answering your telegraphic inquiry, Mississippi procedure does not require Governor's approval of legislative resolutions, and they are not brought to his attention officially either before or after passage, except where the resolution is specifically directed to the Governor. Therefore, it is possible that resolutions were passed during my term of office of which I have never been informed.
>
> SENNETT CONNER.

Here is one from ex-Governor A. H. Longino:

> Replying to your wire this date, will say, "yes"; it was possible for the legislature, during my time as Governor of Mississippi, to pass resolutions not requiring the Governor's signature or approval. At the moment, I am unable to cite instances. Am morally sure, however, that such was a legislative custom, as such resolutions were passed but never brought to my attention officially, "if at all", until the legislature was adjourned.
>
> A. H. LONGINO.

Under our system of legislation, such a thing is altogether possible, as testified to by these two ex-Governors, one of whom, ex-Governor Conner, went out of office in January last, and the other of whom, ex-Governor Longino, is now county judge in the capital of our State. They corroborate the statement I made, and I tell the Senate, as a matter of fact, that I knew nothing about it until the matter was presented before the committee. It was just one of those resolutions which were passed in the busy, closing days of the session, and it was never brought to my attention. It did not amount to anything.

The statement of the junior Senator from Nebraska continues:

> The resolutions and other communications above set forth are merely typical of the great mass of evidence favorable to confirmation. No communications have been received from anyone questioning the qualifications of the nominee other than may be found in the statements of Senator BILBO, as hereinafter set forth.

I have been begging that witnesses be subpenaed so that I could show the lack of qualification of this judge. Not only that, but I will bring judges here who are indeed judges—judges who hold higher positions in the judiciary than Judge Holmes does—to show, as I can show, that the man has the awful judicial record I charge he has.

I notice, on page 5 of the report, the following language:

> The present junior Senator, then an ex-Governor of Mississippi, was duly and properly subpenaed as a witness on behalf of the plaintiff.

That shows that the Senator who wrote this report has not read the law, because he said I was "duly and properly subpenaed." I have shown clearly by the opinions of the court and by the law itself that the subpena was absolutely illegal and unlawful, and yet the committee states that I was properly subpenaed as a witness.

> He refused to appear and succeeded in avoiding service of a writ of attachment. He was later cited for contempt, made a statement to the court which amounted to a plea of guilty—

In other words, the Senator who wrote this opinion is not any better lawyer than is Judge Holmes. He said my statement or explanation of why I did not respond to the subpena "amounted to a plea of guilty."

Mr. BURKE. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Mississippi yield to the Senator from Nebraska?

Mr. BILBO. I yield.

Mr. BURKE. I think the junior Senator from Mississippi should include all the members of the Judiciary Committee in his characterization of qualifications, because after examination of the evidence they all agreed to the statement I made.

Mr. BILBO. I have an idea that the committee have not examined this matter as closely as I have. I am trying to point out where there may be some omissions and some erroneous statements.

But, sir, granting that all the members of the committee agree with the statement of the Senator from Nebraska that my statement to the court amounted to a plea of guilty, I still take issue. I should take issue with the world on that point, because I think I am lawyer enough to know that a mere statement to a court is not entering a plea of guilty, and, upon reconsideration, I am sure that even the Senator from Nebraska will agree that I am right in the statement. That is the observation I made upon his statement.

I continue my reference to this part of the report. I fail to understand it. On page 6 the Senator who wrote the report has set up an affidavit filed by Judge Holmes, an affidavit by Ex-Governor Russell of Mississippi. I have searched it; I have read it; I have tried to analyze it; I have tried to find out just what connection it has with Judge Holmes' qualifications.

On January 24, when we started these hearings, the distinguished chairman of the subcommittee, the Senator from Nebraska, said:

> We are concerned in this hearing only with such evidence as may be offered and such statement as anyone may care to make concerning the qualifications of the nominee to fill the position to which he has been nominated.

In other words, all the way through the chairman of the subcommittee has insisted that nothing should go into the record that did not have some bearing or some relation to the qualifications and fitness of Judge Holmes. Yet Judge Holmes has incorporated in the record this affidavit from Governor Russell. It has been brought forward by the chairman of the subcommittee and included in his report. For the life of me, I fail to find where it has any bearing upon the question of Judge Holmes' qualifications. When it is analyzed it seems to be a studied effort on the part of somebody, beginning with Judge Holmes, to make attacks upon the junior Senator from Mississippi. This is the most damnable affidavit I have ever seen since I have been in the Senate. It charges me with practically everything in the category.

My understanding of the profound and deferential spirit and rule and regulation prevailing in the Senate is that there should not be attacks upon the personal life of a Senator; but here Judge Holmes comes in and, to defend the charges about his judicial misconduct which I have made and which I have asked an opportunity to prove, files the affidavit of a repudiated ex-Governor of Mississippi for no other purpose than to make a personal attack and personal assault upon the integrity and honor of a United States Senator. That is the only effect it can have. This is in keeping with Judge Holmes' conduct.

I have here a letter from Judge Holmes addressed to the Senator from Nebraska [Mr. BURKE], dated February 10, in which he said:

> I enclose herewith certified copy of an order signed by me in the matter of the liquidation of the First National Bank of Jackson, Miss., to be filed with the record, if you deem proper. It relates to a compromise by Senator BILBO, his cosigners, and endorser of a note for $1,850, plus accrued interest. The proposed settlement was agreed to by the receiver, authorized by the Comptroller of the Currency, and approved by the court. It was a routine matter, appeared to be to the interest of the trust estate, and was signed by me as a matter of course. I submit it to you, without comment, for such use or consideration as you may deem proper.

Here is a Federal judge who is going around digging up a transaction of mine with the First National Bank of Jackson, which he approved and the settlement of which he approved.

I have nothing to hide about it. The facts are I borrowed $2,665 from the First National Bank of Gulfport, the purchase price of a piece of land, and paid it down to $1,850. When the bank failed and the panic came on I effected a compromise for $1,250 for the balance due on it. I think it was a pretty good settlement under the conditions in view of the value of the property. It has nothing to do with the settlements I have been talking about at Gulfport, but here is this pussyfooting judge going around digging into BILBO's personal affairs, not to help himself, not to show his fitness, not to show his qualifications, but trying to attack the man BILBO. The affidavit was filed here with the committee. Of course, they have had the benefit of it.

The report of the Senator from Nebraska continues:

> Your committee finds nothing in the matter of the imposition of a jail sentence upon THEODORE BILBO—

I presume the Senator was speaking about the junior Senator from Mississippi—

> that in the slightest degree reflects upon the integrity, impartiality, or ability of this nominee.

In other words, the committee reaches the conclusion that notwithstanding the fact that Judge Holmes had illegally issued a subpena, had illegally issued an attachment, had illegally cited me for contempt, had excessively fixed the bail, had illegally sentenced me, had even violated the law when he did it—in spite of all that "your committee finds nothing in the imposition of a jail sentence upon THEODORE BILBO that in the slightest degree reflects upon the integrity, impartiality, or ability of this nominee."

That is the conclusion of the subcommittee, which continues:

> In the light of this testimony, your committee finds no substance to the charge that Judge Holmes, since he has been on the bench, has participated in politics.

In the face of the testimony of Colonel Wooton; in the face of the statements made by Judge Wilson, but later repudiated; in the face of my own statement, because I was an eyewitness and present; in the face of the sworn affidavit of Hodge, who heard the judge make the statement that he had succeeded in putting BILBO out of politics in Mississippi when he put me in jail, yet the committee concludes that he has not participated in politics.

All right.

In connection with the liquidation of the affairs of the First National Bank of Gulfport, I made some reference to the embezzlement committed by one of the officers of the First National Bank of Gulfport, who, through a period of years, with a sharp pencil had cold-bloodedly and deliberately robbed the bank of $10,000 of its money—money that belonged to the widows who had faith in the bank and its officials, money that belonged to the laboring men who had faith in the officials and those in charge of the bank. He was a man 32 years old, a man with a family. He was socially highly connected. Politically, he belonged to a strong faction. Politically, he belonged to Judge Holmes' faction. After an agent of the Department of Justice had gone down and worked up the fact of this embezzlement when the bank had failed, this man walks into the court at Gulfport, Judge Holmes' court, and enters a plea of guilty as charged of stealing $10,000, without any mitigating circumstance on earth; and the judge promptly says, "Go your way; sin no more; not a day in the penitentiary."

Favoritism! Political bias! And the committee says the most that can be said against this is that the judge overstrained the quality of mercy. He must have developed an awful case of mercy between the time I met him in Oxford, Miss., on the 16th day of April 1922, and the time he turned loose this man who had stolen $10,000 of the depositors' money down at Gulfport, a man of high social and political standing; a man who, not through any accident or any sudden impulse of the sort that sometimes causes people to act wrongfully, but a man who, through a period of years, deliberately, cold-bloodedly, week after week, month after month, year after year, steals $10,000; and when caught by an agent of the Department of Justice, with no defense, he walks up and pleads guilty, without any mitigating circumstances or any excuse; and the judge does not give him a day in jail; does not give him any sentence whatever!

I was standing yonder at Oxford, pleading with the judge, and explaining the fact that I had no intention of being in contempt; that I acted upon the advice of lawyers. "No; no; go on to jail!"

There you are. That is the type of man with whom we are dealing.

Now I wish you would listen to these alarming statements:

The sentence imposed in each case—

Speaking about these bootlegger cases—

was proper if there was more than a gallon of liquor involved or if the accused was a habitual violator. If neither of those elements was present in the offense, then a misdemeanor only was committed, and the sentence was excessive.

The author of the report states that as a matter of law. That is not the law.

The sentence imposed in each case was proper if there was more than a gallon of liquor involved or if the accused was a habitual violator. If neither of those elements was present in the offense, then a misdemeanor only was committed, and the sentence was excessive.

Two of the defendants, after serving a portion of their time, sued out writs of habeas corpus in other jurisdictions and were released on a holding that the indictments were insufficient to charge a felony. The United States district attorney—

Now, listen to this:

The United States district attorney, who handled all of the prosecutions before Judge Holmes, assumes full responsibility for the proceedings.

The committee at last break down. They at last confess that they have a bad subject on their hands, and that he has made a miserable mess, and they try to skid him on by "passing the buck" to the district attorney, and saying:

The United States district attorney who handled all of the prosecutions before Judge Holmes assumes full responsibility for the proceedings. He then felt, and still feels, that the indictment was sufficient, and he is supported by court decisions.

He is not.

Before sentence was imposed in each case testimony was taken in order to fix the degree of punishment. It is admitted that if the evidence showed a violation amounting to a felony the sentences were proper. The judge and the district attorney state that the evidence did so establish a felony.

Going on and deliberately violating the law of Congress; and they have been at it since January 15, 1931. I would be willing to wager dollars to doughnuts that there are a thousand persons in the penitentiary who were charged with misdemeanors, and have no right under the law to be adjudged guilty of felonies. If that is not enough to justify an investigation, I shall have to be disillusioned.

Senator BILBO has requested the committee to call before it these confessed bootleggers in order that they may contradict the testimony so offered and endeavor to establish that they were guilty only of a lesser offense than that for which they were sentenced.

You see, there has been no evidence offered except when they brought the judge himself in here to do the testifying, to explain the things with which we charged him.

The district attorney makes an affidavit that during the 4 years of his term approximately 2,500 prosecutions were handled by him, more than 80 percent of them before Judge Holmes, and that no reversal was secured in any appeal.

Of course, you know that is not true. I have already produced the records on that point.

After a careful study of all of the evidence presented, and with due regard to the imperative necessity of approving appointments to the Federal bench only in cases where there is no shadow of suspicion, of lack of integrity and ability, we affirm that Judge Edwin R. Holmes is qualified and should be confirmed.

That is the conclusion of the committee.

I think I shall be able to show enough in the record to prove that if I had been given half a chance there would have been some suspicion; there would have been some doubt.

Mr. President, I regret the necessity of detaining the Senate this long to present this matter, but I desired to make the record full and complete. I have done my best to make it consecutive, logical, and sequential, so that those who read may understand. I repeat that I appreciate the odds in a battle of this kind. If I had had a chance to bring witnesses before the committee in substantiation of my position on charges other than those upon which I predicate my personal objections, as against 23 witnesses and affiants produced on the other side, I should not have experienced such difficulty as I have in presenting the matter. But I am convinced—I believe with all my heart, my soul, and my mind that this judge is totally bad; that he is most certainly unfit to be a member of the reviewing bench of the judiciary of this country. Whether it is indolence, whether it is lack of a judicial mind, whether it is because of recklessness, indifference, viciousness, I care not what is decided; the facts speak for themselves. At the conclusion of my remarks I shall make a motion that the nomination be recommitted, and I certainly trust that Senators will give me a roll call on that motion.

I desire to say in conclusion, and I say this deliberately, that as I view Judge Holmes' record of judicial incompetency and abuse of powers vested in him, it is unparalleled in the courts of this country, and in my judgment finds no equal, at any time or anywhere, except in the records made by Lord Chancellor Jeffreys, of England, and Lord Braxfield, his counterpart, "bloodthirsty wearers of the ermine", whose fiendish delight was in the imposition of extreme sentences, and whose cruelty and political profligacy knew no bounds.

According to Lord Campbell, who was at one time also Lord Chancellor of England, Judge Jeffreys began the practice of law when quite a young man, and during his first experience as a barrister was seized with an inordinate desire to rise rapidly in his chosen profession. Among his first acts to elevate himself socially, financially, and politically as a means toward the ultimate purpose burning in his heart, he sought and obtained the hand and heart of an heiress, who was the daughter of a country gentleman of large possessions. From the dismal chambers where he lived, in what was called the Inner Temple, he advanced to the occupancy of a sumptuous manor house through this marriage to this high-born lady. Thus proudly and favorably circumstanced, it was an easy step from this social elevation and financial security to the office of recorder of the city of London.

His one thought and consuming desire was to climb, forever climb, to a higher position in the judiciary of his country. He was finally recommended to the King as a suitable man to serve His Majesty. As a result of these recommendations from his newly acquired social and political friends, he was then promoted to the high office of chief justice of the King's bench, which for a long time had been his paramount ambition to obtain, because it was an advancing rung in the ladder that led to the lord chancellorship. As lord chief justice of England, he was constantly determined upon doing everything within his power to please the King and all the satellites of the King's court in order to attain the ambition of his life. He was content to abide his time and to wade through slaughter, if necessary, for the seat he so much coveted, and he could well afford to go to any extreme, for he was already confirmed—as Judge Holmes has already been confirmed as a district judge—and forever secure as a chief justice of the King's bench. Every sentence he pronounced and every judgment he enrolled were with an eye single to the interest of his political faction and to his own advancement to the lord chancellorship of England.

Judge Jeffreys sought not only to please the King but also to strike terror into the ranks of the opposite political party by the very savagery with which he conducted his prosecutions.

In the case of Sir Thomas Armstrong, a man who did not enjoy the good graces of the King, Judge Jeffreys illegally overruled his plea and then pronounced judgment of death upon him. Sir Thomas exclaimed, "I ought to have the benefit of the law, and I demand no more." Whereupon the infuriated judge replied, "That you shall have, by the grace of God. See that execution shall be done on Friday next according to law."

The King presented to Judge Jeffreys a valuable ring from his own finger in reward for this trial, and it has since been known as Jeffreys' bloodstone.

Just before attaining the goal of his ambition—appointment as Lord Chancellor of England—and during the time of his sojourn in the western circuit where he was sent to

try a large number of alleged violators of the law, he learned of the death of the Lord Chancellor to whom he desired to become the successor, and was therefore in great haste to return to London lest some other judge might receive the appointment. Consequently, in order to expedite his departure, he conceived the idea of having it openly proclaimed "that if any of those indicted should relent and plead guilty they would find him to be a merciful judge, but that those who put themselves on trial, if found guilty, would have little time to live, and had better spare him the trouble of trying them."

On the Monday morning thereafter Judge Jeffreys, on taking his place, found many applications to withdraw the plea of not guilty, and the accused pleaded guilty in great numbers—as they do in Judge Holmes' court—but this did not placate the enkindled ire of the judge, and he manifested no semblance of mercy. In these few days 292 of these unfortunates received death sentences, and the whole country was covered with quarters of human beings, and to this day the tradition still lives of the horror then and there created.

Following these numerous summary sentences Judge Jeffreys hastened to London in order to obtain for himself the coveted office of Lord Chancellor of England. By royal command he stopped at Windsor Castle and after a wonderful reception the great seal was delivered into his hands. A short time after this followed the downfall and flight of King James, and Judge Jeffreys was thrown into a state of great consternation. He undertook to effect his escape by disguising himself in the garb of a sailor, but was finally detected by one of his victims, who at one time had been arraigned before his court, and who later, upon being questioned as to how he came off, said, "Came off? I am escaped from the terrors of that man's face, which I would scarcely undergo again to save my life, and I shall certainly have the frightful impression of it as long as I live."

The disguised Lord Chancellor, while seated in an alehouse for breakfast, and believing himself unrecognizable in his sailor suit and old soft hat, dared to put his head out of the window to look at the passers-by, and it so happened that at that very moment this same man was walking upon the opposite side of the street and recalled the features of the pretended sailor as those of none other than Lord Chancellor Jeffreys. Upon forthwith being seized and carried to the Tower of London for safety he lost all sense of dignity and presence of mind, and as the coach rolled along to the great tower he constantly exclaimed, "For the Lord's sake, keep them off! Keep them off!"

While incarcerated in the tower a letter was addressed to him from the widows and fatherless children of the west where he had sentenced so many hundreds of poor unfortunates who had entered pleas of guilty at his request. This letter reads as follows:

> We, to the number of a thousand and more widows and fatherless children, our dear husbands and tender fathers having been so treacherously butchered, our estates sold from us, our inheritances cut off by the severe sentences of Lord Judge Jeffreys, now in the Tower of London, a prisoner, ask that the Lord Chancellor, the vilest of men, be brought down to our counties, where we the good women of the west shall be glad to see him and give him another manner of welcome than he had there 3 years since.

And so in the great Tower of London, the Lord Chancellor of England, Judge Jeffreys, died a miserable death at the age of 41. There is not to be found in all judicial history a more striking and impressive example of far-reaching consequences that flow from investing in such characters great power and authority through promotion in the judiciary than in the life of Judge Jeffreys.

To find his counterpart in modern times I have only to direct your attention to the life story and judicial record of Judge Edwin R. Holmes. Judge Holmes began the practice of law early in life, at the age of 21, while Judge Jeffreys began at the age of 18. Like the Lord Chancellor of England, Judge Holmes first sought the hand and heart of the daughter of a country gentleman, a one time United States Senator, realizing, as he must, that this union would forever establish his social status and political allegiance. Like Judge Jeffreys, he realized that through this favorable circumstance his own violent ambition to reach the top rung in the ladder of the judiciary could be best promoted.

His first political office was that of mayor of Yazoo City, this recognition corresponding to the first office held by Judge Jeffreys, which was that of recorder of the city of London.

Because of the prestige and influence of his father-in-law, and because of his improved social status occasioned by his marriage to the daughter of an outstandingly prominent country gentleman, Judge Holmes was elevated to the judgeship in the Federal District Court of the State of Mississippi. Here was an undeserving recognition thrust upon him by virtue of the fact that he was the son-in-law of a United States Senator. Knowing that his promotion came from a political influence, having been reared in a political atmosphere, having been environed by unceasing political activities, his first allegiance when he became a Federal judge was to those interests and that political faction which had secured his appointment. As in the case of Judge Jeffreys, his one consuming desire was to climb, forever climb, to a higher position in the judiciary of his country, and to do so by the exercise of his power to please and further the interest of his political faction, and at the same time to strike terror and consternation into the ranks of the opposite political faction.

Judge Jeffreys had his Sir Thomas Armstrong, whose plea he illegally overruled for political purposes, and for which he received a priceless ring taken from the finger of the King; and Judge Holmes had his ex-Governor THEODORE G. BILBO, whom he illegally sentenced for contempt of his court and incarcerated without authority of law in the Federal jail within his jurisdiction, for political purposes.

Judge Jeffreys urged upon alleged violators of the law in the western circuit, where he had been sent to try several hundred cases, that if they would plead guilty to the charges made against them they would find him to be a merciful judge; but if they put themselves on trial and were found guilty they would have little time to live, and consequently they had better spare him the trouble of trying them. Likewise, Judge Holmes caused it to be frequently stated by attendants in his court to these alleged violators of the National Prohibition Act that if they would come into his court without an attorney and plead guilty he would exercise mercy.

In the instance of Judge Jeffreys, when these alleged violators from the western circuit complied with his proclamation and pleaded guilty, he gave to each and every one of them a sentence of death; and the tradition still lives of the horror then and there created. Likewise, in the case of Judge Holmes, he unlawfully sentenced hundreds and possibly thousands of these alleged violators of the liquor law to years of servitude in a Federal penitentiary, notwithstanding the fact that they had pleaded guilty to an indictment wherein they were charged with mere misdemeanors.

Judge Jeffreys pronounced these severe sentences upon his victims in order to curry favor with his own political faction and to satisfy the bloodthirsty cravings of his majesty the king. Judge Holmes imposed these illegal sentences upon these unfortunate violators of the law because he thought it was a popular thing to do in a prohibition State where the people have never voted to legalize the sale of spirituous liquors.

The masterpiece which was addressed to the authorities by the widows and fatherless children of the West, whose husbands and fathers he had treacherously butchered, would be a fit memorial for the thousands of wives and children in the several Federal court districts of Mississippi to address to the United States Senate at the present hour, when Judge Holmes, the author and perpetrator of the injustices that have been done them, is seeking promotion before this body in the judiciary of this country.

I can well imagine the feelings of delight that must have been experienced by that victim of the wrath of Judge Jeffreys who, when walking over the paved streets of London,

beheld and recognized the face of the Lord Chancellor in the worn-out garb of a common sailor. It has been my experience, Mr. President, to have indelibly fixed upon my mind the terrors of Judge Holmes' face, which I would scarce undergo again to save my life, when I stood before him on the morning of April 16, 1923, in the little town of Oxford. Visualize if you will that tragic moment. The courtroom was crowded and overflowing with spectators. The temperature was mounting and at fever heat. A dense humidity had settled down, with suffocating discomforts, and lay heavily like a leaden robe upon an awe-struck assemblage. Men's nerves were strung to the highest tension, strained to that fine ductility that snaps to the sequence of startled expectancy. Their sensibilities were stunned by the teriffic outburst of an unanticipated and inconceivable judgment just imposed upon me.

Behold, for the moment, standing before an enraged and unreasonable judge, an ex-Governor of a sovereign State of the Union, a practicing attorney in good repute before the bar of the courts of this country, receiving an unlawful double sentence from this remorseless judge for an alleged contempt of a Federal court; a contempt to which he had not pleaded guilty; a contempt which he had in most polite and deferential language disclaimed any intention to commit; a contempt that grew out of a character of subpena that was wholly void and without potency, as I have this day shown, and had been outlawed by the statutes of the United States for more than 100 years. Behold this man, for the time being, suffering inwardly the unutterable tortures arising from the shame and ignominy that with such explosive suddenness and breath-taking violence had been heaped upon him, calm and self-possessed with it all, meekly and with gentle persuasion most courteously stating all the facts by which he had been motivated; and then listen to that stern and unyielding judge, steeled against all the softer influences and finer sentiments numbered among the nobler attributes of mankind, snapping a snarled and merciless judgment and unlawful sentence with all the venom and viciousness of his poisoned and revengeful nature!

Fortunate, indeed, am I this day to be able to recognize the face and features of this tyrannical judge, not as he protrudes his head from the window of a breakfast inn as I tramp the sidewalks of a populous city but as he advances his claim for promotion in the judiciary of my country while I stand in the presence of the Members of the Senate. I trust that my recognition of his form and features on this occasion, and my portrayal to you of this judge as I know him to be, will result in the termination of his political life, and in your refusal to permit his advancement in accordance with the unbridled ambition that has motivated every act of his judicial life.

Mr. President, in my judgment, the elements that entered into the character of the Lord Chancellor of England are the self-same elements that are embodied in the character of Judge Edwin R. Holmes. The distinction between the severity of the sentences imposed by the two judges does not lie in any appreciable difference in the elements that constitute their respective characters, but exists only by virtue of the times in which they lived and the environments by which they were circumstanced. In other words, if Judge Holmes had lived in the days of King James, he would have been in all essentiality the Lord Chancellor Jeffreys; and if Judge Jeffreys had lived in the days of Franklin Delano Roosevelt, he would have been no worse and no better than Judge Edwin R. Holmes.

Mr. President, with these remarks, and awaiting whatever reply my friends on the opposite side of this question may have to make, I move that the nomination of Judge Holmes be recommitted to the Committee on the Judiciary in order to give me an opportunity to present further evidence in the case.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Mississippi [Mr. BILBO] to recommit the nomination.

Mr. CONNALLY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	King	Pittman
Ashurst	Costigan	La Follette	Pope
Austin	Davis	Lewis	Radcliffe
Bachman	Dickinson	Logan	Reynolds
Bailey	Donahey	Lonergan	Robinson
Barbour	Duffy	Long	Russell
Barkley	Fletcher	McGill	Schwellenbach
Benson	Frazier	McKellar	Sheppard
Bilbo	George	McNary	Shipstead
Black	Gibson	Maloney	Smith
Brown	Glass	Metcalf	Steiwer
Bulkley	Gore	Minton	Thomas, Okla.
Bulow	Guffey	Moore	Thomas, Utah
Burke	Hale	Murphy	Townsend
Byrd	Harrison	Murray	Truman
Byrnes	Hatch	Neely	Vandenberg
Capper	Hayden	Norbeck	Van Nuys
Caraway	Holt	Norris	Wagner
Clark	Johnson	O'Mahoney	Wheeler
Connally	Keyes	Overton	White

Mr. LEWIS. I reannounce the absences of certain Senators and reassert the reasons therefor as given upon a previous roll call.

The PRESIDENT pro tempore. Eighty Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity, with an amendment, in which it requested the concurrence of the Senate.

TAXATION OF BANK SECURITIES OWNED BY THE R. F. C.

The PRESIDENT pro tempore, as in legislative session, laid before the Senate the amendment of the House of Representatives to the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity, which was, on page 2, to strike out section 2 and insert:

SEC. 2. Effective upon the date of enactment of this act, interest charges on all loans by the Reconstruction Finance Corporation to closed banks and trust companies, now in force, or made subsequent to the date of enactment of this act, shall not exceed 3½ percent per annum on condition that the rate of interest charged debtors of such banks or trust companies shall not exceed 4½ percent per annum; otherwise such interest rate shall be as fixed by the Reconstruction Finance Corporation: *Provided, however,* That no provision of this act shall be construed to authorize a reduction in the rate of interest on such loans by the Reconstruction Finance Corporation retroactive from the date of enactment of this act.

Mr. FLETCHER. I ask unanimous consent that the Senate concur in the amendment of the House.

Mr. BENSON. I object.

Mr. BARKLEY. I ask unanimous consent that the amendment may be held on the table temporarily.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EDWIN R. HOLMES

The Senate resumed the consideration of the nomination of Edwin R. Holmes to be United States circuit judge, fifth circuit.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Mississippi [Mr. BILBO] to recommit the nomination to the Committee on the Judiciary.

Mr. BURKE. Mr. President, it will be my purpose to state very briefly the considerations which, in the first instance, led the subcommittee appointed by the Committee on the Judiciary, and following that the full Committee on the Judiciary, to report, in each case unanimously, in favor of the confirmation of Judge Edwin R. Holmes to be judge of the circuit court for the fifth circuit.

Since it has been charged openly that the protestant, the junior Senator from Mississippi [Mr. BILBO], has not had the opportunity to make the kind of showing which he desired, and since he has indicated his purpose by moving to recommit on that ground, I think just a moment or two

should be taken to lay the facts in that particular before the Senate.

The nomination was sent to the Senate by the President in August of last year. It was reported favorably by the Committee on the Judiciary. The recommendations submitted in behalf of Judge Holmes appeared to the committee to show abundantly his qualifications for the office to which he had been nominated.

When the nomination had been reported to the Senate by the Committee on the Judiciary it was made known by the junior Senator from Mississippi, who was then in his home State participating in a gubernatorial campaign, by communication to the senior Senator from Mississippi [Mr. HARRISON], that the junior Senator from Mississippi desired to object on personal grounds to the confirmation of the nomination of Judge Holmes. The nomination was then recommitted to the Committee on the Judiciary and the senior Senator from Mississippi appeared before the committee in August, a few days before final adjournment, stated the facts in reference to the personal objection of his colleague, and asked that the matter go over until the next session. It went over; but before adjournment the chairman of the Judiciary Committee presented, and the Senate adopted, a resolution which kept the nomination before the Senate.

I refer to that fact only because it shows that it must have been known to the junior Senator from Mississippi that if he desired to examine into the record of Judge Holmes, and gather his evidence, that was his opportunity to do it. I say it should have been known to him, unless possibly this is another case such as the Senator himself has referred to, when, while he was serving as Governor of Mississippi in 1930, both branches of his legislature unanimously endorsed Judge Holmes for a vacancy then existing on this very circuit court of appeals. The only answer the junior Senator has to make to that—it being remembered that the incident of his confinement to jail, about which he complains, took place in 1923, and the incident to which I now refer took place in 1930—is that he was so busy with the legislature that he did not know about it. It may be that he did not know that this matter was going to be before the Senate at this session; but I think everyone else who had any interest in the matter knew it.

At the opening of this session on the 3d of January there was appointed by the Judiciary Committee a subcommittee composed of the senior Senator from Nevada [Mr. PITTMAN], the senior Senator from Vermont [Mr. AUSTIN], and myself. We at once conferred with the two Senators from Mississippi in order to get their views on this nominee. The junior Senator from Mississippi indicated that he wished to be heard on the matter. The committee, of course, expressed willingness to hear him, and asked him what witnesses he desired to have called. He stated that he would submit a list of all the witnesses he desired; and after some little delay—not especially unreasonable, I think—the junior Senator did submit the names of certain witnesses whom he desired to have called.

One thing in particular was that he wished to have us issue a subpena duces tecum to bring in all the records of the court in the case of Birkhead against Russell, which was tried before Judge Holmes in 1922 and 1923. Those records were all brought from Mississippi. A hearing was set for the 23d of January, the complete court records in the matter, at the request of the junior Senator from Mississippi, having been received several days before that and turned over to him for examination.

On the 23d of January the junior Senator stated that if the matter could go over until the 24th he would be able to proceed to better advantage, because he had not completed his examination of the rather voluminous court records in the case. The other members of the committee being consulted, that was agreed to. Following that, on the same day, one of the witnesses to whom the junior Senator has referred—Judge Crum, a witness subpenaed at the request of the junior Senator from Mississippi—received word, I believe, of illness in his family, and desired to return home immediately; so the committee met that day—on the 23d—and heard this one witness, and then, to accommodate the junior Senator, met on the following day—the 24th.

We subpenaed whatever witnesses the junior Senator requested, and all the records that he wanted. Judge Holmes himself came here, and a number of attorneys and others appeared voluntarily in the case; and beginning on the 23d, and continuing on the 24th and 25th, we heard all of the evidence. Both sides rested, having offered everything they had to offer, and the subcommittee awaited the preparation of the transcript of the evidence before holding a meeting for a decision.

About a week after the conclusion of the hearings, when, as we all supposed, the matter was completely at an end, and in fact just on the morning of the day when the committee normally would have been ready to report to the Judiciary Committee their findings, to wit, on Monday, the 3d of February, a few minutes before the meeting of the committee the junior Senator from Mississippi delivered to me a written communication in which he asked to have the hearings reopened, as he desired to call some more witnesses and go into other matters.

We complied with his request, and did not make a report; and, with the approval of the other members of the committee, I wrote to the junior Senator from Mississippi and suggested that we thought the matter had been gone into very extensively, emphasizing, as he says I have done on that occasion and on all occasions, that the only matter in which we were interested was the question of the qualifications of this judge to hold the office. Anything that might be said pro or con on that question we were interested in, but nothing else; but I added that if the junior Senator from Mississippi felt that there were other matters bearing on that question which ought to be investigated, we should like to have him submit a list of the names of the witnesses and a brief statement as to what he hoped to prove by them.

The junior Senator from Mississippi agreed to that, but stated that he wished to go to Mississippi to gather some of his evidence; or, I believe, he stated that he was going to Mississippi to make a speech, and that while there he would gather the evidence.

The matter ran on for a few weeks, and after his return he did submit a very long statement of certain additional matters which he desired to have investigated. There really was nothing else about the one matter with which he had started. We had all the evidence on that subject, and it had been submitted in the testimony and in the statements, and has been submitted today in the oral argument of the junior Senator from Mississippi; so it is thoroughly familiar to all Senators who have followed the matter.

But there were some other matters which the Senator wished to have investigated. The first was the matter of certain alleged political activities of Judge Holmes. The second had to do with the so-called illegal sentences; and there were named four men who, it is claimed, back in 1931 or 1932—I believe 1931—had been given sentences for felonies, which I may say in passing, on the sworn testimony, they committed; two of whom, however, were able to secure their discharge on writs of habeas corpus after serving a portion of their sentences, because of what are alleged to have been defects in the indictments. But, in any event, one of the requests was that we go thoroughly into that matter. Also the charge was made that this judge, as United States district judge, had approved the report of the receiver of a closed national bank in Mississippi which had been an improvident settlement, so it was claimed; and the request was made that we subpena J. F. T. O'Connor, Comptroller of the Currency; and at that time and later the request was made that we also subpena a great number of persons from this city in Mississippi, members of a depositors' committee, attorneys, and others who might know about the various items of the settlement.

I believe there was only one other matter to which our attention was called, and that was in reference to the probation of a man named Searle Hewes, who pleaded guilty to a charge of embezzlement. Judge Holmes, upon hearing the statements of many of his townspeople in reference to the

good qualities of this young man, determined that there was a chance to rehabilitate a confessed criminal, and sentenced the man to 3 years in prison but released him on parole.

Those were the matters which we were invited to investigate. While the members of the subcommittee did not think it advisable to call the bootleggers, as I think we may properly denominate them, since they all pleaded guilty to the indictments; while we did not consider it necessary to go into all of those phases, in fairness, we wished to get at all the material evidence.

First, in regard to the charge of Judge Holmes being politically active. The charge was made, and the statement from the junior Senator from Mississippi, in specific language, was that in the campaign of 1928 Senator Hubert D. Stephens, a candidate for reelection, was to speak at a fair somewhere in central Mississippi, his opponent being the then former Representative T. Webber Wilson, and that to this gathering—in the nature of a joint debate, as I understand—Judge Holmes had gone, and that he had taken part in that political meeting. That seemed like a matter that should be investigated, and the junior Senator from Mississippi asked in his first request simply that we call Judge T. Webber Wilson, the candidate against whom the remarks were supposed to have been made and the participation engaged in. But in a later communication he asked that we call not only Judge Wilson but one of his campaign managers—Colonel Wooton.

We endeavored to call both those gentlemen, who are now employed in Washington, but Colonel Wooton had left the city, and gone to Mississippi, and could not be reached at the time; but Judge Wilson, the main one, the one first mentioned, and apparently the most interested party, was here, and we issued a subpena for him. He came before the committee. I do not know as to the other members of the committee, but when I went into the committee room that was the first time I had ever seen Mr. Wilson. He was sworn as the witness of the junior Senator from Mississippi [Mr. BILBO], and his testimony is in the printed record. I hope many Senators have read it. He told about this incident, but, instead of giving his testimony, let me read the letter of ex-Senator Stephens on the same point. He also testified, but I think the matter is brought out a little more succinctly in his letter. The testimony of Judge Holmes, of Senator Stephens, and of Judge Wilson, the latter two the candidates, is all identical in this respect.

This is the letter from Senator Stephens:

My attention has been called to a statement filed by Senator T. G. BILBO at the hearing before a subcommittee, of which you are chairman, on the nomination of Judge Edwin R. Holmes. The statement to which I refer is on page 108. It reads as follows:

"Judge Holmes forgot to tell you that when the Honorable T. Webber Wilson, who is now a member of the Federal Parole Board, and was at the time a Member of Congress, was making his race for the United States Senate against the then incumbent, Senator Stephens, he (Judge Holmes) left his home and his court and traveled 150 miles across the State and, as all understood and believed at the time, had himself, by prearrangement, planted in the audience to be called upon by Senator Stephens, so he could stand in the audience and give testimony in behalf of Senator Stephens against Congressman Wilson at the time. Does this look like a man who never took any part in politics?"

I had no knowledge that Judge Holmes was to attend the speaking. There was no prearrangement, nor was he planted in the audience to be called upon by me. It is true that he came quite a distance, but hundreds of others did the same. I saw him shortly before the speaking began, shook hands with him and other friends, but had no idea at that time of making reference to him during my speech.

For many years it had been charged that Federal offices were sold in Mississippi. At the session before the time of the speaking I had been active in having passed through the Senate a bill making the buying or selling of such offices a criminal offense. Certain persons had been indicted in Judge Holmes' court.

I interject here that former Representative Wilson testified that in his meetings in this campaign he had claimed that he, rather than Senator Stephens, was the one responsible for bringing about these indictments, because he had introduced in the House of Representatives a resolution to investigate the matter. Senator Stephens continued:

Because of some remarks made by my opponent I desired to call attention to the fact that I had been instrumental in the passage of the bill referred to. Seeing Judge Holmes in the audience, I asked him to stand up. He did so, and I asked only this question, "If this bill had not been passed, would it have been possible for those persons to be indicted?" His answer was, "No." That ended the matter.

Judge Holmes and I have been friends for many years, but I had never heard of him taking an active part in any campaign of mine. Really, I have never known him to be active in any political campaign since he was appointed judge.

Judge Wilson went into the matter a little more fully and stated, just as Senator Stephens had stated, that when Senator Stephens called on Judge Holmes to stand up he never saw a more embarrassed man in his life the judge apparently not knowing what was going to happen to him. But he stood up, the question was propounded, he said, "No" and sat down, and that was the end of it. Judge Wilson said that not a vote was affected. He may have been a little hurt at the time, but he realized it did not have any effect on the campaign; certainly there was nothing to indicate any political activity on the part of the judge. That is all there was to that story.

Later, at the instance of the junior Senator from Mississippi, we were able to secure the presence of Colonel Wooton, and he came in and elaborated this matter a little more. He remembered that the judge said something more than merely to answer "No." He gave the date of the passage of the act to which Senator Stephens referred, and Colonel Wooton, the campaign manager, said he thought that from that time on he could see that the popularity of his candidate, Wilson, was waning. But it is a little hard for members of the committee to see that Judge Holmes had anything to do with that.

Mr. President, that is the whole story, and that is all there is to the charge of political activity on the part of the judge.

I must hasten, as I do not desire to detain the Senate for more than a few moments. In reference to the matter of the First National Bank of Gulfport, a claim was made, which was not in the mind of the junior Senator from Mississippi when he started to present these objections, but someone down in Mississippi had told him some kind of a story, so eventually he brought in the fact that Judge Holmes had been the one who had approved the report of Receiver A. F. Rawlings both for the sale of the assets and for the composition of claims against persons who owed the bank, and, as I said, he asked that we call in Mr. O'Connor, the Comptroller of the Currency, and a great many persons from Mississippi.

We did talk with the Comptroller of the Currency, who was leaving the city, and who stated that in any event the right person to call, if we desired information in regard to the matter, was the Deputy Comptroller, Mr. Lyons, whose name has been mentioned here, and who is in charge of insolvent banks. So we asked Mr. Lyons to appear, and he came before the committee. We wanted to get information from him, not in reference particularly to any certain items in the bank in Gulfport, Miss., for we assumed that he would not have information as to that in his mind, but we wanted to know what the procedure was in reference to handling closed banks, and how much a judge had to do with it. I will not take the time to read his testimony, except one paragraph, which shows just how the matter is handled. He stated:

In the course of liquidation the bad debts are usually taken care of later on. The good assets are worked on and liquidated, and then they work on the doubtful assets. That is the ordinary course. The receiver negotiates with the debtors and works up the best settlement he can. That is his duty. He has, of course, some of the local people to consult in that connection. Lots of banks have depositors' committees that consult with the receiver on the sale of assets and the compromising of debts.

If he arrives at a settlement that he thinks is fair and the best he can do, he submits that to the office—

Referring to the office of the Comptroller of the Currency—

with all information he has and with his recommendation. Before we approve or disapprove a compromise we, of course, refer to the records of that bank, and quite often the examiner before the bank closed would have classified certain of them as doubtful or worthless. We have that information. We have the receiver's classification at the time he took charge. In addition, we require the financial statements of the debtors, which we analyze, and if

the offer seems the best the receiver can get, due to the financial condition of the debtor, we approve and authorize him to petition the court for authority to make the compromise.

That petition is presented by the receiver's attorney, and there is usually attached to it a letter or copy of the letter which we addressed to the receiver approving the settlement. In that letter in the preamble we set out the facts as presented to us by the receiver, the insolvent condition or the extent to which insolvency exists, and the ability of the debtor to pay. The court has that before it at the time the petition is filed. In most cases that goes through the court without any question, because of the complete data which we set out in our letter and our conclusion as to why that settlement should be approved.

The Deputy Comptroller of the Currency goes on to say that Mr. Rawlings, the receiver in the case of this particular bank, was appointed a national-bank receiver in 1926; that he is considered one of the best receivers in the entire system; that all his reports in this case were thoroughly examined, and, of course, the procedure he then outlined was followed. The receiver, through his attorney, presented the matter to Judge Holmes and, no objection being raised by depositors' committees or anyone else, the judge, as a matter of course, approved the report.

We felt that we had gone far enough with the investigation of this closed bank. If we were to begin to examine into the affairs of the bank itself, taking up particular items, it would require doing over again all the work that the Comptroller of the Currency has done, and probably we should not be in a position to arrive at as correct a conclusion as the Comptroller did, that this was the proper way to handle the matter. The system may be wrong. It may be that we should require Federal judges to examine every item of these claims, regardless of the fact that the Comptroller of the Currency has given his approval. That, however, is not the way the matter is handled. So both the subcommittee and the full Committee on the Judiciary felt that there was nothing in the matter of the approval by Judge Holmes of the accounts of the receiver in that bank and his petitions which would in any way militate against the qualifications of this judge.

Another word or two, and I am through.

There has been a great deal of talk this afternoon, as there was before the subcommittee and before the full Committee on the Judiciary which granted the junior Senator from Mississippi the right to appear and make his contentions about four individuals—Jonathan Day, Longmeyer, Neyland, and Ainsworth, and, I believe, one other man. These men all pleaded guilty to violation of the National Prohibition Act. According to the testimony in the record—not only the testimony of the judge but the further and more detailed testimony of the clerk of the court—after their plea of guilty all the witnesses were sworn, not by the judge but by the clerk, as in all Federal courts; and the testimony in each case shows either that much more than a gallon of liquor was involved in the transaction—in certain cases 10 gallons and other amounts—or, if that element were not present, that these confessed offenders were habitual offenders. So the judge imposed sentence in the light of the sworn testimony adduced before him.

It is true that two of the persons I have mentioned, and possibly certain other persons, were later, because of what the circuit court of appeals held were defects in the indictments, able to secure their discharge. These matters were never prosecuted to the Supreme Court. Before that could be done national prohibition had come to the end of the road; and it was never found possible or advisable to have a final decision on the question.

The Senate in all seriousness is asked to disqualify a judge because in his judgment it was sufficient to charge a general violation of the act, and in the judgment of many other United States district judges and in the judgment of the district attorney who prepared the indictment, it was felt that it was sufficient to charge a general violation of the act, and because then upon sworn testimony as to the degree of the offense he sentenced the violators to the penitentiary. We are asked to disqualify this judge because he did not look ahead and see what the circuit court of appeals would decide, which decision might very well have been reversed if the matter had gone to the Supreme Court.

But neither the subcommittee nor the full committee could see any advantage in going further into those matters.

Of course, nothing has happened of the kind indicated by the junior Senator from Mississippi when he talked about thousands and thousands of his constituents who have been illegally sentenced. He presented us with the names of four men. Every one of those men, according to this record, pleaded guilty to the indictments, and, according to the sworn statement, they were all guilty of a felony. They escaped, luckily, from serving their full sentences because other courts held that the indictments should have been more specific. But again I say that there is nothing in this matter which in any way indicates any lack of qualification on the part of the judge.

In closing—I do not wish to detain the Senate longer—let me say that it became very clear to the committee when we began this hearing that there was a sharp difference of opinion between the members of the committee and the junior Senator from Mississippi as to what we were really to investigate in this case. We are somewhat criticized, I understand, by the junior Senator from Mississippi this afternoon for the position we took; but it was our judgment that we were concerned only with the qualifications of the judge and with statements and evidence bearing in some way or other on his qualifications. Apparently it was in the mind of the junior Senator from Mississippi that we should go into the political situation in Mississippi.

The Senator seemed to think that the fact that this judge happened to be a son-in-law of former Senator John Sharp Williams should be considered as having something to do with the question of confirmation, or that we could concern ourselves with the matters in dispute between the Senators from Mississippi. However, we tried to confine the matter closely to the qualifications of the judge. We called every witness suggested that the committee thought could shed any needed light upon the question of the qualification or disqualification of the judge.

We had before us the recommendations of the presidents of the bar associations of Mississippi and Louisiana and communications from a great number of county bar associations unanimously endorsing the judge and speaking of him in the highest degree. The Mississippi Legislature previously had unanimously endorsed him. The Brotherhood of Railroad Trainmen and other organizations spoke most highly of the treatment all litigants received in his court. We were satisfied in the subcommittee, and the full committee is satisfied, that this judge has every qualification for the position to which he is nominated.

So, in closing, we come back to the place where we started. The junior Senator from Mississippi went into this matter with the idea that because the judge had at first sentenced him to 30 days in jail and a hundred dollars' fine, and then reduced the sentence to 10 days, therefore the Senator should make a showing against the judge, at least for the record. I am fully satisfied in my mind that in the beginning that was all the junior Senator had in mind; but later he warmed up to his task. He got into it, and discovered other matters about which he wanted to talk.

Let me now say just a few words in reference to the sentence itself.

Here was a very important case, a salacious case, a case involving the highest political figures in the State of Mississippi. It was a suit by a woman against the then Governor of Mississippi for $100,000 damages for alleged seduction. The suit was brought first, I believe, in the southern district of Mississippi; but the Governor, the defendant in the case, came forward with a plea, if I understand correctly, that while the capital was in the southern district, and he was there, he was maintaining his legal residence in the northern district, and could not properly be sued in the southern district which, I believe, is also the district in which the junior Senator from Mississippi lived.

The suit was dismissed there and filed in the other district. When it came on for trial the junior Senator from Mississippi, at that time a former Lieutenant Governor and former Governor, and having held other offices in his State, was subpenaed as a witness. It is true that he lives more

than 100 miles from the place at which the court was finally held, but unknown to the junior Senator from Mississippi Congress had changed the law in that respect. He said it was changed so few months before this happened that he doubts whether the attorneys in the case and the judge knew the law had been changed.

However, that does not seem to be a matter in which we can indulge in fancy. They did proceed in accordance with the new law. A showing was made to the court upon which the order for a subpena—not only for the junior Senator from Mississippi but for other witnesses living more than 100 miles from the seat of the trial—was issued. The junior Senator from Mississippi was served with the summons, and he elected not to obey.

Mr. BILBO. Mr. President, will the Senator yield?

Mr. BURKE. Certainly.

Mr. BILBO. Will the Senator point out for the benefit of the Senate just what act was performed to show that they were complying with the statute as revised?

Mr. BURKE. Without turning specifically to the page, Judge Holmes testified that the attorneys in the case came before him and made the showing. He was asked if there was a written application, and he said it was his impression that there was a written application, although he did not recall definitely, but no written application appears in the files that were brought up.

Mr. AUSTIN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from Vermont?

Mr. BURKE. I yield.

Mr. AUSTIN. May I refer the Senator to pages 83 and 84 of the hearings of January 24 and 25, where the junior Senator from Mississippi was interrogating Judge Holmes? I quote from the hearings at that point:

Senator BILBO. Without application or cause shown, you issued that order to the clerk?

Judge HOLMES. I think it was a written petition, but I do not find it in the files.

Senator BILBO. It is not in the files.

Judge HOLMES. It is proper for me to act on a written petition. That is my recollection. Mr. Campbell was an experienced lawyer.

Then on page 27 of the plea of Senator THEODORE G. BILBO is set forth the written order made by Judge Holmes, as follows:

To the clerk of the United States District Court of the Western Division of the Northern District at Oxford, Miss.:

You are hereby directed to issue subpenas for Mrs. C. F. Skillman and Eli Rainer, residents of Memphis, Tenn.; and Theodore G. Bilbo, who resides at Poplarville, Miss.; and Will Perry, Jr., a resident of Meridian, Miss.; and Dr. Henry Boswell, who resides at Magee, Miss.; and E. E. Frantz, of Jackson, Miss., witnesses for the plaintiff in the above-styled case.

Witness my hand this the 20th day of November 1922.

E. R. HOLMES,
Judge of the United States District Court for the State of Mississippi.

Mr. BURKE. I thank the Senator from Vermont for supplying the definite information in answer to the question.

In any event, the subpena was issued and served on the junior Senator from Mississippi at his home, and he elected, for reasons which seemed to him sufficient, not to respond to the subpena.

When the case came on for trial on the 5th of December 1922, it having been announced and generally known that former Governor BILBO was not going to respond to the subpena, the attorneys for the plaintiff asked for a continuance in order that they might secure a writ of attachment and have the ex-Governor brought into court to testify as a witness. Judge Holmes continued the case until the 9th. The writ of attachment was issued but was returned on the 9th with the notation that ex-Governor BILBO could not be found.

At that time the evidence shows there was discussion between the parties as to whether to proceed with the trial. They thought the trial would last about 10 days, as it did. Some information had come to some of the parties, according in their affidavits, that ex-Governor BILBO had crossed the line into eastern Louisiana. Accordingly, upon application of the attorneys for the plaintiff—and this was testified to before the committee in the presence of the junior Senator from Mississippi—and I find no denial in the record—letters of ex-Governor BILBO were shown to the judge at that time in which ex-Governor BILBO urged Miss Birkhead to bring the action and stated that he would appear as a witness in her behalf whenever the case came on for trial.

Mr. BILBO. Mr. President, will the Senator yield?

Mr. BURKE. I yield.

Mr. BILBO. Does the Senator mean to state it was shown to the committee that I had written letters to that effect?

Mr. BURKE. I mean to state exactly what I did state; that in the hearing it was developed by the testimony of Judge Holmes himself, as well as by the testimony presented by affidavit to the committee, the affidavit of the attorneys in the case, that such letters were shown to the judge; and the junior Senator from Mississippi was present both when the affidavits were read and when Judge Holmes testified under oath that such was the fact. I find no denial.

Mr. BILBO. I think the Senator is mistaken. There is no such animal as a letter that I had written. There was testimony as to letters the woman in the case had written.

Mr. BURKE. No; these were letters alleged to have been written by ex-Governor BILBO to the woman.

Mr. BILBO. That is merely hearsay, like most of it.

Mr. BURKE. It is not exactly hearsay. It is the testimony of a witness, sworn to tell the truth, who appeared before the committee—Judge Holmes himself.

In any event, a writ of attachment was issued to the marshal in the eastern district of Louisiana and the trial went on, but the marshal made his return that ex-Governor BILBO could not be found any more advantageously in eastern Louisiana than in Mississippi. The jury, after about a 10-day trial, returned a verdict for the defendant.

There are affidavits of the attorneys in the case which indicate that the plaintiff felt, either rightly or wrongly—and we have no way of judging as to that—that if her chief witness, as she claimed, had been present there might very well have been a different outcome, and that was the only complaint anyone had to make about the trial—that one of the witnesses, the witness, did not appear.

Following that incident, the attorneys for the plaintiff asked for a citation of contempt to issue against ex-Governor BILBO. Judge Holmes issued the citation, set it for the next term of court, and in April of 1923, ex-Governor BILBO appeared before the court.

We have heard much argument as to whether or not he pleaded guilty. I have always found, in my experience, that what the parties put down in writing at the time an event happens is apt to be much more accurate and trustworthy than their remembrance of it 10 or 15 years later, particularly when there have been a great many developments that tend to becloud the issue. We find that on this day, whether or not ex-Governor BILBO pleaded guilty, Judge Holmes, at that time, made his entry in the journal that Mr. BILBO entered his plea of guilty, and the judge imposed the sentence.

I, myself, have no difficulty in deciding what happened on that occasion. I think, probably, the Senator from Mississippi is entirely correct in saying that he did not say, "I am guilty"; but, according to my understanding of the law, a man may plead the facts of guilt just as effectively without using the word "guilty" as otherwise. On the Senator's own statement here and before the committee, he said to the judge, "Yes; I received the subpena, but I did not answer it." That was just as effective a plea of guilty as if he had said, "I am guilty of the charge of contempt."

We were not particularly concerned with the Senator's reasons for not appearing. He says he did not know that the law had been changed. He also says that his testimony was privileged, and would not have been of any help; but, of course, no one can seriously contend that a witness upon whom a subpena is served may himself decide whether or not his testimony is material.

He must go into court and let the judge determine, in answer to the witness' plea of privilege, whether he must give his testimony.

In any event, the present junior Senator from Mississippi deliberately and wilfully and purposefully disobeyed the subpena issued out of this court in a most important case; and when he was brought in, in response to the citation issued at the request of the attorneys for the plaintiff who had caused the original subpena to issue, and made his plea, the judge imposed a sentence.

I do not know that other Senators will agree with me in this; but when the facts in the case were made known to me my estimation of Judge Holmes immediately went to a higher level. Here was a former Governor of the State, a powerful figure in the State, himself a lawyer, a man who anyone could see was going to "go places" in Mississippi politics; a powerful figure. A weak judge would say, "Well, while I might send to jail some unknown man on the street if he deliberately flouted the processes of the court, this man is too powerful. I will let him off." I believe, however, that in this day and age we need to demand that justice shall rule the mighty as well as the weak; and when Judge Holmes imposed a sentence which some might say was too severe, and others might say was not severe enough, I say that imposing any sentence of that kind upon a powerful figure, as he did, was an indication that this judge possesses some of the qualifications that go to make a great member of an important branch of our Government.

It is very interesting to note what followed that. Ex-Governor BILBO was then taken to the jail, but only nominally was he in jail. The jailer moved out. The jailer asked the judge if it would be proper; he said he would like to move out and let the ex-Governor occupy his rooms on the first floor. The judge made no objection; so ex-Governor BILBO occupied the rooms of the jailer. He had his telephone. He never was under lock and key. According to the testimony and his own admissions, his place was crowded with visitors all day long.

Three days later the ex-Governor sent for the judge and asked him to drop into the jail and see the ex-Governor, who was then serving the third day of a 30-day sentence; and the sentence also involved the imposition of a $100 fine. The judge testified that he thought it a little unusual that a judge should be asked to go around to the jail to call on a man serving a sentence in the jail; but when he thought of it he decided that a refusal might embarrass the ex-Governor. Anyway, whatever the judge's reasoning was, he went to the jail. A large crowd of students or some other friends of the ex-Governor were visiting with him, but they left; and the judge and the ex-Governor had some conversation.

Again I say, it would be very well to apply to what took place the test of what, if anything, was written down on that occasion. The judge and the Senator disagree as to what was said in the jailer's rooms that day. The judge went back to the courthouse and made an entry in the minutes, that because of the fact that the prisoner had taken his punishment in such a proper manner and had expressed his apologies—I do not recall the exact wording—he thought the ends of justice would be satisfied by reducing the sentence to a 10-day sentence; and it was so ordered.

At the end of 10 days ex-Governor BILBO appeared at his nominal jail to accept the nomination, as I understand, in the race for Governor that year. I do know, as the testimony clearly shows, that he had a platform composed of 10 planks, one for each day that he served in jail; and enough is shown in the record to indicate very clearly that the Senator took full advantage of capitalizing upon the fact that he had served 10 days in jail rather than testify against a friend.

That is all there is to that. I think, upon a fair consideration of the whole question, that if the Members of the Senate have had an opportunity to read all of the testimony, they have reached the same conclusion that the subcommittee and the full Committee on the Judiciary have reached. If the Members of the Senate had had the opportunity the subcommittee had to sit for 2 days, 3 days, 5 or 6 days with the judge present, to have him on the stand and examine him, to see how he responded to the examination of the junior Senator from Mississippi, and so on, they would agree with the committee that here is a man qualified in every way, by training and experience and temperament, to fill with high honor to himself and to the fifth circuit the position on the circuit court of appeals for the fifth circuit.

So, while it may be that other members of the committee would like to speak, as chairman of the subcommittee of the Judiciary Committee, I feel that a sufficient showing has been made to justify the Senate in voting down the motion of the junior Senator from Mississippi to recommit the nomination, and in following that action by confirmation of Edwin R. Holmes to be judge of the circuit court for the fifth circuit.

Mr. AUSTIN. Mr. President, I favor confirmation of this nomination because I became convinced from the evidence, and from personal contact with Judge Holmes in the hearings before the committee, that he is entirely worthy and well qualified for the office.

After the experience of listening, from time to time during a period of 3 years, in connection with the special committee of the Senate investigating receiverships in bankruptcy and in equity, to testimony relating to alleged misconduct of judges, I confess that I probably had a keener interest in this investigation than I otherwise should have had. Viewing the evidence as a whole, and critically, I came to the considered judgment that Judge Holmes is a person who is most likely to hold high the standard of the judiciary, and to do justice to every case, so far as human limitations permit a man to go.

Examining all of the points of challenge made in this investigation, and putting them in their very worst light, they did not seem to me to amount to enough to raise even a question of this man's qualifications for the office.

I do not intend to take the time of the Senate for more than a few moments, but, briefly, the points are: The sentence for contempt; the four or five sentences on November 4, 1931, for violation of the liquor laws; the sentence for larceny, which was suspended; and the charge of participation in a political campaign. These and these alone are the points of objection raised against the confirmation of this nominee.

Take the first one, and look at it in its very worst light. Assume that the judge in this case did not inquire of counsel who applied for the subpena in the first instance whether there was special cause under the statute for extending the subpena beyond the 100-mile limit—and, of course, if it was not up to the judge to do that, then he could not be censured for not doing it—but assume that it was up to the judge to investigate his clerk's office and be sure that he knew about all applications made for subpenas, a circumstance which we know probably very rarely occurs in the offices of the clerks of the district courts; assume that there was the obligation on the judge to do that, and that in this case he failed to do it, that he was negligent and did not ascertain from the counsel whether there were special grounds for extending the subpena beyond a hundred miles, and that originally there was neglect on the part of this man in the issuing of that one subpena. Follow that out, and assume further that on the summoning of the junior Senator from Mississippi for contempt, the judge was careless and did not examine the law. I think that is a fair assumption; I think from his testimony that is a fair deduction. His testimony is:

> Now, Senator BILBO's plea of guilty was unexpected. I sentenced him immediately. I did not look at the statute. Most Federal statutes provide a fine and imprisonment. If I had looked at this statute I would have seen that it provided for a fine or imprisonment, but I did not. I frequently sentence without looking at the statute, when I know the sentence I am going to give is small and well within the power of the court. So I entered that sentence of a fine of $100 and 30 days in jail. Senator BILBO made no objection to the sentence, nor was any appeal requested, nor any statement made by him or any other person that the sentence was unjust, unfair, or improper. Later, by reason of the clemency which I showed the Governor, the error was automatically corrected.

Take it in its very worst light, and this contempt matter is bundled up in a very small compass.

Add to that these other points in testing the qualifications of this man for the office to which he has been nominated, namely, that on November 4, 1931, he sentenced four or five respondents to the penitentiary for violating the liquor

law; I do not remember the exact number. If the sentences had been illegal, about which there is a question, add that to the complaint.

Then take the other case, of the exercise of discretion. It is certainly put up to every judge by the laws which Congress has enacted to exercise discretion in criminal cases, and, if he thinks it proper, to suspend sentence and to place the defendents on probation. We, the Congress, have said to the judges, "You must do that in suitable cases."

Here is the judge appealed to for that kind of clemency, and his sympathy is excited. Let us assume there is not a man in the Senate whose sympathy could be excited in the same circumstances. Can we say this man is not qualified to be a judge because we do not agree with him in his discharge of that duty?

Of course, the other point, the allegation that what the judge did at the meeting in Mississippi amounted to participation in a political campaign, is too frivolous for consideration.

I say that, taking all the charges together in their very worst light, assuming that the junior Senator from Mississippi had summoned a thousand more witnesses and that they had all supported everything he claims with respect to these episodes, would they, could they, amount to a cause for supporting his claim that he has good ground for saying to the Senate, "You ought not to confirm this nomination because this man is politically obnoxious to me on these grounds"? I say not.

I desire to go back just far enough to show how little there is to the claim, anyway. Take the charge about which I think more of my colleagues have inquired, knowing that I served on the subcommittee, than about anything else connected with the investigation, the charge that Judge Holmes imposed several illegal sentences under the liquor law. Mr. President, there may be men who think that is so, but the judge thought that he was acting under the law and according to the law, and he had just ground for thinking so. His testimony is as follows:

> I was relying and still rely in support of those sentences on the case of *Husty* v. *U. S.* (282 U. S. 694, 75 L. Ed. 629).

I will detain the Senate but a moment, but this ought to go into the RECORD. That case, unanimously decided by the Supreme Court of the United States on February 24, 1931, was clearly in the memory of this judge, and was a full and complete justification of the sentences which he imposed on November 4, 1931. The opinion of the Supreme Court was read for the Court by Mr. Justice Stone, speaking for the entire Court. I read only an extract from it, but certainly enough to show that the sentences in this case were upon proper indictments, according to the Supreme Court of the United States, and that the sentences were entirely and wholly lawful.

I read first the following from one of the briefs:

> The proviso to the Jones Act defines no new crime, but merely cautions the court to exercise a judicial discretion in the imposition of sentences. *Ross* v. *United States* (37 F. (2d) 557, certiorari denied, 281 U. S. 767); *United States* v. *Kent* (36 F. (2d) 401. See also *McElvogue* v. *United States*, in which this Court denied certiorari.

I read now from page 702 of the decision, just an excerpt from the opinion:

> Failure to state more specifically the amount of the liquor, and the time and place of the offenses charged, does not affect the validity of the indictment. It was, at most, ground for a bill of particulars if timely application had been made. See *Durland* v. *United States* (161 U. S. 306, 315).
>
> It is urged that the indictment is defective, because it fails to state whether the offenses charged were felonies or misdemeanors, and whether the petitioners were charged with casual or slight violations, or habitual sales of intoxicating liquor, or attempts to commercialize violations of the law, which, petitioners argue, were made new or aggravated offenses by the Jones Act.

That is exactly what was claimed to be true.

> But the Jones Act created no new crime. It increased the penalties for "illegal manufacture, sale, transportation, importation, or exportation" (of intoxicating liquor), as defined by section 1, title 2, of the National Prohibition Act, to a fine not exceeding $10,000, or imprisonment not exceeding 5 years, or both, and added as a proviso, "that it is the intent of Congress that the court, in imposing sentence hereunder, should discriminate between casual or slight violations and habitual sales of intoxicating liquor, or attempts to commercialize violations of the law." As the act added no new criminal offense to those enumerated and defined in the National Prohibition Act, it added nothing to the material allegations required to be set out in indictments for those offenses. The proviso is only a guide to the discretion of the court in imposing the increased sentences for those offenses for which an increased penalty is authorized by the act.

And there are cited several other cases in support of that statement. I omit some language and proceed:

> While the district court may have had before it facts other than those appearing of record which it was entitled to consider in imposing sentence under the Jones Act, we think, in view of the confusion which has arisen with respect to the propriety of the sentences under the possession count, that the district court should be afforded an opportunity in its discretion to resentence the petitioners in the view of the applicable statutes, as stated.

That language answers all the criticism made in this case. The judge, after the pleas of guilty, proceeded to inquire of witnesses, who had been sworn before they testified, as to the essential facts connected with the offenses which would determine the degree of the penalty and punishment. Some of the prisoners were taken out of the penitentiary in Georgia on writs of habeas corpus. Why? Because all that appeared to the judge in Georgia was what appeared in the indictment; not a word of testimony such as Judge Holmes had. And in respect to that Judge Holmes said:

> Of course, if the case had been presented to me as it was presented to the judge in Georgia, I would have had to do exactly what the judge in Georgia did.

Here is what the clerk of the court, Mr. Todd, testified took place. It is very brief. The Senator from Nebraska [Mr. BURKE] inquired:

> What happened after their pleas of guilty?
>
> Mr. TODD. The judge asked the defendant if he had anybody to speak for him. He asked the prohibition agents to come around. You understand, these witnesses are all prohibition agents against the defendant. They are always present in court. He asked them to come around, and they were all sworn, including the defendants. Each defendant, Longmeyer and Neyland, had no statement to make. The prohibition agents testified in open court as to their reputation for selling whisky; that they were old offenders and that they had several and sundry complaints. The judge always asked, "Why did you pick this person out to make the buy from?" The prohibition agents told the court they had various and sundry complaints against these parties for selling whisky, and, based on the complaints, after making an investigation, they made the purchases—

And so on. I shall not undertake to repeat all the testimony; but when we get right down to examination of the evidence before the subcommittee, we find that there is not anything to these charges.

The real situation, as revealed by the evidence, shows in respect to the contempt case that there was contempt. The claim that the subpena was not valid could not be decided by the man subpenaed. The only place in our system of government where that question can be answered is in the court. It is not within the power of an attorney, simply because he is an attorney, to hold up his hand against the subpena and the court and say, "I will not come." Even if the subpena were invalid, has he that right? It is up to the court to pass on that question.

So far as the punishment for contempt goes, the punishment actually inflicted and suffered was wholly and entirely within the law.

Mr. BILBO. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. BILBO. Will the Senator from Vermont say that he would sustain a conviction for contempt if the subpena were illegal?

Mr. AUSTIN. What I said was that the real situation showed an actual contempt of court in not attending court and making the claim to the court that the subpena was invalid. As I pointed out, there was not in fact any illegal sentence imposed on the 4th day of November 1931.

With respect to the exercise of clemency, that is not for us to review.

So far as the allegation of participation in politics goes, it is frivolous.

So, with a presentation such as was made in this case, after the very close study of this matter by the Committee on the Judiciary, which was considerate of the point of view of the junior Senator from Mississippi who had made the claim that this man was personally obnoxious to him, I feel sure that the recommendation of the committee, unanimously made upon a vote taken by roll call, is a well-considered recommendation; and my impression is that it is founded upon the evidence, and that this nomination ought to be confirmed.

Mr. HARRISON. Mr. President, out of consideration of Senators, because we have been here for a long time, and it is quite late, I am going to forego what I should very much like to say in behalf of the man whose nomination for judge is now before us.

I hope we may have a vote.

Mr. BILBO. Mr. President, I do not wish to detain the Senate any longer than necessary to keep the record straight.

It makes me very much discouraged, after having tried to read the opinions of the courts, that the Senator did not hear me. I am afraid my friend the Senator from Vermont was not present when I read them. I am astounded at his position, in the face of the statute and in the face of the opinions of the courts which passed upon this important question.

In 1929 the Jones Act was passed. The Husty case, from which the Senator read, was an interpretation of that act and its provisions. In 1931 the Jones Act, which was an amendment to the prohibition act, was itself amended; and it is under the amended Jones Act that all the courts say, except Judge Holmes' court, that indictments must allege those conditions set out in the statute which make an act a felony. My contention is that the judge has the same trouble the Senator has. He is still traveling under the Husty opinion, which interprets the law of 1929, whereas Congress had passed another law; and it seems to me the Senator has had about as much trouble in finding out that Congress had amended the Jones Act as Judge Holmes has had in the disposition of the cases in his court.

There can be no question about the matter. Eight judges have passed on it, as well as two circuit courts of appeal, the tenth and the fifth. Both of the appellate courts say that in order to send a man to the penitentiary for violating the liquor law, the indictment must affirmatively allege the sale or possession of more than a gallon. It must affirmatively state that he has been an habitual violator.

That must be stated. If it is not stated, and then the man pleads guilty to a misdemeanor, the misdemeanor under the amended Jones Act carries with it a penalty of 6 months or $500; and that means 6 months in jail, and not 6 months at hard labor.

I am telling the Senate these matters because of Judge Holmes' misunderstanding and lack of appreciation and inability at interpretation of the statute itself and the decisions of the courts. He is down in a corner of Mississippi where he has sent hundreds, and I might say thousands, of Mississippians to the penitentiary in open defiance of the statute and in open defiance of the decisions of the courts.

It has been suggested that a case has not gone to the Supreme Court of the United States. No; there have not been any lawyers foolish enough to appeal from the arguments and reasonings of the circuit court of appeals in the California case and in the Pace case. It is an open-and-shut proposition. No lawyer has been foolish enough to carry it to the Supreme Court. It is conceded and there seems to be no way to get around it.

If it is the desire of Senators to make a record by confirming this man who has sent and will send hundreds, and I think thousands, of people to the penitentiary when he is violating the law himself, when he is defying the decisions of the courts themselves, it is for Senators to decide for themselves. If Senators desire to confirm a man with that kind of a record, I have nothing further to say. It is their duty and their responsibility. All I ask is to have the nomination go back to the committee, and I will bring the judges and witnesses to whom I have referred. They will not be bootleggers, either, but reliable witnesses to establish the fact that the man is not judicially minded and is not fitted to hold the position to which he has been named.

My people have been sent to the penitentiary—and I do not care whether they are bootleggers or not, they are citizens and come from good families in many cases. Judge Holmes says he is still continuing that practice. It is said there are only four little bootlegger cases involved. I read a certified list showing at least 13 cases from Judge Holmes' court, and that is merely a suggestion of what he has been doing.

Of course, if Senators do not desire to investigate the matter further, I must be content. I have assumed my responsibility and performed my duty as I see it. If it is the desire of the Senate to confirm Judge Holmes, and if the Senate is unwilling to respect the time-honored rule of personal obnoxiousness, then I must accept that ruling, and I shall be disillusioned in that regard if the vote shall be to confirm Judge Holmes in the face of my protest. I have done my duty and made my record. I apologize to the Senate for having taken so much time, but I wanted the record to be made so the world may know what is involved in the question upon which the Senate is about to vote. I shall keep up that showing until the world does know all about it all the way down the line.

The PRESIDENT pro tempore. The question is on the motion of the junior Senator from Mississippi [Mr. BILBO] to recommit the nomination to the Committee on the Judiciary.

Mr. BILBO. I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. BARKLEY (when his name was called). On this vote I have a pair with the senior Senator from Delaware [Mr. HASTINGS], who is absent. I understand if present he would vote as I intend to vote; so I feel at liberty to vote. I vote "nay."

Mr. BULKLEY (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CAREY], who is necessarily absent from the city. Not knowing how he would vote, I withhold my vote.

The roll call was concluded.

Mr. BYRD. My colleague the senior Senator from Virginia [Mr. GLASS] is unavoidably detained. He has a general pair with the senior Senator from Minnesota [Mr. SHIPSTEAD].

Mr. MCNARY. The senior Senator from California [Mr. JOHNSON] is unavoidably absent. If present, he would vote "nay."

Mr. AUSTIN. The senior Senator from Rhode Island [Mr. METCALF] is necessarily absent. If present, he would vote "nay."

I desire to announce that the Senator from Maine [Mr. WHITE] has a general pair with the Senator from Washington [Mr. BONE].

Mr. LEWIS. I announce that the Senator from Alabama [Mr. BANKHEAD] and the Senator from Florida [Mr. TRAMMELL] are detained on account of illness; and that the Senator from Washington [Mr. BONE], the Senator from New Mexico [Mr. CHAVEZ], the Senator from California [Mr. MCADOO], the Senator from South Dakota [Mr. BULOW], the Senator from Nevada [Mr. MCCARRAN], the Senator from New York [Mr. COPELAND], the Senator from Oklahoma [Mr. GORE], the Senator from West Virginia [Mr. HOLT], the Senator from Louisiana [Mrs. LONG], the junior Senator from Montana [Mr. MURRAY], the Senator from Georgia [Mr. RUSSELL], and the senior Senator from Montana [Mr. WHEELER] are necessarily detained from the Senate. I am not advised how these Senators would vote.

I also announce that the junior Senator from Massachusetts [Mr. COOLIDGE], the Senator from Illinois [Mr. DIETERICH], the Senator from Rhode Island [Mr. GERRY], the Senator from Maryland [Mr. TYDINGS], the Senator from New Jersey [Mr. MOORE], and the senior Senator from Massachusetts [Mr. WALSH] are unavoidably detained from the Senate. I am advised, however, that if present and voting they would vote "nay."

I further announce that the senior Senator from North Dakota [Mr. FRAZIER] is paired on this question with the Senator from Massachusetts [Mr. WALSH]. I am informed that if present and voting the Senator from North Dakota would vote "yea", and the Senator from Massachusetts would vote "nay."

The junior Senator from North Dakota [Mr. NYE] is paired with the Senator from Florida [Mr. TRAMMELL]. I am not advised how these Senators would vote if present.

The result was announced—yeas 4, nays 59, as follows:

YEAS—4

Benson	Bilbo	Donahey	Thomas, Okla.

NAYS—59

Adams	Connally	La Follette	Pope
Ashurst	Costigan	Lewis	Radcliffe
Austin	Davis	Logan	Reynolds
Bachman	Dickinson	Lonergan	Robinson
Bailey	Duffy	McGill	Schwellenbach
Barbour	Fletcher	McKellar	Sheppard
Barkley	George	McNary	Smith
Black	Gibson	Maloney	Steiwer
Brown	Guffey	Minton	Thomas, Utah
Burke	Hale	Murphy	Townsend
Byrd	Harrison	Neely	Truman
Byrnes	Hatch	Norris	Vandenberg
Capper	Hayden	O'Mahoney	Van Nuys
Caraway	Keyes	Overton	Wagner
Clark	King	Pittman	

NOT VOTING—33

Bankhead	Couzens	Long	Shipstead
Bone	Dieterich	McAdoo	Trammell
Borah	Frazier	McCarran	Tydings
Bulkley	Gerry	Metcalf	Walsh
Bulow	Glass	Moore	Wheeler
Carey	Gore	Murray	White
Chavez	Hastings	Norbeck	
Coolidge	Holt	Nye	
Copeland	Johnson	Russell	

So Mr. BILBO's motion to recommit the nomination was rejected.

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Edwin R. Holmes to be United States circuit judge, fifth circuit? [Putting the question.] The ayes have it, and the nomination is confirmed.

Mr. HARRISON. I ask that the President be notified of the confirmation.

The PRESIDENT pro tempore. The Senator from Mississippi asks that the President be notified of the confirmation. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE REPORT OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDENT pro tempore. The clerk will state the next nomination in order on the calendar.

JUDGE OF THE POLICE COURT

The legislative clerk read the nomination of Edward M. Curran, of the District of Columbia, to be judge of the police court for the District of Columbia.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

SUPREME COURT OF PUERTO RICO

The legislative clerk read the nomination of Martin Travieso, of Puerto Rico, to be associate justice of the Supreme Court of Puerto Rico.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. KING. I ask unanimous consent that the President be notified of the confirmation of the two judges.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DIPLOMATIC AND FOREIGN SERVICE

The legislative clerk read the nomination of Charles S. Reed, 2d, of Ohio, to be secretary in the Diplomatic Service of the United States of America.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

UNITED STATES PATENT OFFICE

The legislative clerk read the nomination of Charles H. Shaffer, of Maryland, to be Examiner in Chief, United States Patent Office.

The PRESIDENT pro tempore. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are confirmed en bloc.

RECESS

The Senate resumed legislative session.

Mr. ROBINSON. Mr. President, a parliamentary inquiry. As I understand, the Army appropriation bill is the unfinished business, and will automatically come before the Senate when it shall meet tomorrow.

The PRESIDENT pro tempore. That is the order of business.

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 50 minutes p. m.) the Senate took a recess until tomorrow, Friday, March 20, 1936, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 19 (legislative day of Feb. 24), 1936

DIPLOMATIC AND FOREIGN SERVICE

Charles S. Reed, 2d, to be Secretary in the Diplomatic Service of the United States of America.

UNITED STATES CIRCUIT JUDGE

Edwin R. Holmes to be United States circuit judge, fifth circuit.

JUDGE OF THE POLICE COURT

Edward M. Curran to be judge of the police court for the District of Columbia.

ASSOCIATE JUSTICE, SUPREME COURT OF PUERTO RICO

Martin Travieso to be an associate justice of the Supreme Court of Puerto Rico.

UNITED STATES PATENT OFFICE

Charles H. Shaffer, to be examiner in chief, United States Patent Office.

POSTMASTERS

CALIFORNIA

Alma B. Pometta, Benicia.
Peter D. McIntyre, Blythe.
Purley O. Van Deren, Broderick.
Floyd F. Howard, Courtland.
Valente F. Dolcini, Davis.
John H. Dodson, El Cajon.
Corinne Dolcini, Guadalupe.
George L. Clare, Guerneville.
Harry H. Chapman, Hornbrook.
Nettie Fausel, Independence.
James M. Toomey, Manteca.
Frank N. Lawrence, Mount Shasta.
Earl D. Cline, North Los Angeles.
Mary A. Roels, Point Reyes Station.
Joseph Galewsky, St. Helena.
Anna McMichael, San Juan Bautista.
Manuel S. Trigueiro, San Miguel.
Catherine E. Ortega, Sonora.
George H. Banning, South Pasadena.

ILLINOIS

Henry Harris, Auburn.
Fred H. Stoltz, Bridgeport.
Betty Davis, Easton.
Walter T. Smith, Havana.
Stanley L. Pool, Sumner.
John Wacker, Techny.

KANSAS

Thomas G. Riggs, Burns.
Martin Miller, Fort Scott.

MAINE

Wilbur F. Goodwin, Kennebunk Port.

SOUTH DAKOTA

Clyde V. Hill, Highmore.

TEXAS

Ralph C. Owens, Dickinson.
James S. Colley, Legion.
Carroll T. Coolidge, Pasadena.

VERMONT

Dora W. Brown, Lunenburg.
Cecile M. Beaton, South Ryegate.

HOUSE OF REPRESENTATIVES

THURSDAY, MARCH 19, 1936

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, Thou who counteth the numbers of the stars and calleth them all by their names, who covereth the heavens with clouds, who prepareth rain for the earth, and who drieth up the mighty rivers, bow down to our altar of prayer and let it be precious in Thy sight. O spread the heavens with the serenity of Thy glory. Walk on the troubled waters and let the winds of Thy mercy be wafted over lands and floods. Father of undying love, take to Thine own arms the helpless and the homeless as they wrestle for the daybreak; may they see the King, not in His strength but in His majesty of His goodness; let the hungry be fed, the naked clothed, and the roofless sheltered. We pray that the strong and the fortunate may not be idle nor frivolous under the awful dome of tragedy and death. Beset them with the thoughts of solemnity and girt them with personal responsibility. The Lord God grant that the trappings of wealth, the homes of luxury, and the gardens of pleasure, in these hours of darkness, may be released and clothed with sacrificial service. O give Thine own power to the men as they labor to save life and property from the tossing, turbulent channels of disaster. God bless them. Through Christ our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE INFLUENCE OF CRIME ON THE AMERICAN HOME

Mr. LAMBETH. Mr. Speaker, at the request of the gentleman from South Carolina [Mr. MCMILLAN], who is absent today, I ask unanimous consent that there may be inserted in the RECORD an address by the able Director of the Bureau of Investigation, Mr. J. Edgar Hoover, entitled "The Influence of Crime on the American Home." On yesterday the gentleman from South Carolina secured the consent of the House to insert this address, but he was not aware of the rule of the joint committee and had not received the estimate of the Public Printer, since the address would consume 2¾ pages of the RECORD. I therefore ask unanimous consent that this address may be inserted in the RECORD, as requested.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. MCMILLAN. Mr. Speaker, under leave to extend my remarks in the RECORD I insert an address by J. Edgar Hoover, Director of the Federal Bureau of Investigation, United States Department of Justice, delivered at New York City, March 11, 1936, before the Round Table Forum under the auspices of the New York Herald Tribune:

It is a distinct privilege to address the members of this forum. In so doing I feel that your interest in this subject may bring about effective action against what constitutes the most dangerous menace to the happiness and welfare of the American people since our civilization began. Crime has reached a pinnacle of appalling height. It lives next door to us. It rubs elbows with us. Its blood-caked hands touch ours. A lackadaisical attitude now has resulted in a crisis.

No American home is free of this shadow. Aggravated robbery, theft, arson, rape, felonious assault, or murder annually is visited upon 1 of every 16 homes in America. Last year in this supposedly enlightened, advanced, civilized country there was a minimum of 12,000 murders and an estimated total of 1,445,581 major crimes. Thus 1 of every 84 persons in the United States was subjected to injury or death through the workings of this tremendous crime aggregate.

Beyond this there is a constant toll of the rackets; here no home is exempt. The criminal toll is taken upon food and services, and actual physical violence includes the loss of life itself. The American home and every person in it is today in a state of siege.

I hope you will receive these facts not as those of an alarmist, but as the view of a conservative person reporting conservatively upon a most astounding set of terrifying conditions. The crime problem in America is something which should take precedence before any other subject other than that of livelihood itself. Even then it becomes a correlated subject, because it is costing each American citizen a minimum of $120 a year. This is the per-capita tax which must be assessed to pay our annual crime bill, estimated to be more than $15,000,000,000. If the entire cost of crime could be eliminated for 2 years, that saving would pay off our entire national debt. Freedom for 3 years would pay the entire cost of America's share in the World War, plus an enormous bonus. We have lived for years in apathy; crime in its present proportions cannot exist without apathy, and we are paying a total bill of billions for a national lack of vigilance. The result is a direct blow at the safety of the American home.

I hope this forum will realize that it has a distinct and solemn duty. No battle was ever won without leadership. Today there is indeed a crying need for that leadership in the mobilization of every possible defensive and offensive weapon of public opinion, public vigilance, public courage, and public willingness to carry on relentlessly and without surcease a battle to the death against the multifold minions of crime. Just so long as there is no highly active opposition to crime in a community, just so long will that community be crime ridden. I need only to point to the dozens of law-enforcement scandals which exist in our American cities today to bring forcibly before you the fact that in spite of all the lip service which is going on about this menace, little, indeed, is being done to actively eradicate it. Newspaper after newspaper comes forth with the details of grand-jury investigations, vice crusades, police inquiries, scandals in prisons, and there, to all intents and purposes, the matter ends. Should a typhoid epidemic descend upon a city, shadowing it with the danger of illness, we would find thousands of volunteers ready and willing to risk their lives in an effort to protect their loved ones against the ravages of this foe. Yet the insidiousness of crime is such that even though a greater danger exists, we find that the average citizen reads his newspaper, sees the black headlines screaming the details of conditions which are as symptomatic in their way as the ravages of the most deadly disease that ever has swept this country. Practically nothing is done about it. So I am telling you now that conditions have reached a place where you can take your choice. You can rise up and fight. You can use some of the fortitude which is supposed to have been granted the American people through the courage which made this country the greatest independent nation of the world. You can gird yourself for a long and difficult fight upon armed forces of crime, which number more than 3,000,000 active participants, and by so doing you can set yourselves free from the dominance of this underworld army. If you do not care to do this, then you can make up your mind to submit to what really amounts to an actual armed invasion of America.

Again, I must insist that I am speaking conservatively. I have said that crime begins at home and that we are doing nothing—comparatively nothing—to protect that home. My proof comes in the fact that 20 percent of our crime is committed by persons not yet old enough to vote, by those not even out of their "teens", by those who often are not even past high-school age and who should still be under the active management and responsibility of the home. Yet we of law enforcement find these children stealing automobiles, we find them committing almost a thousand murders every year, we find that there are tens of thousands of burglaries and larcenies perpetrated by boys and girls who, in any other generation, would have been under the discipline of vigilant parents. This is an undeniable indictment of the American parent of today. In case after case where the youth of America becomes a felon before he is able to become a voter, the story is the same monotonous repetitious collection of facts. There has been a lack of discipline, of watchfulness. I find indulgence in apathy, misbehaviors leading to more serious infractions of home rule and in turn leading to petty and then vicious and deadly infractions of the law. We cannot wholly blame these youths for the crimes they commit. We must go behind these crimes and blame the true perpetrators, the fathers and mothers who so failed in their duty, who were so prone to the amusements of the moment, who, through mental laziness, allowed discipline to relax and their children to go into the world and reap the harvest which they, the parents, really sowed.

Flooding to me every day in the disillusioning business of watching the criminal flood stream by, I see the reports of local officer after local officer; I hear the stories of probation supervisors, of persons engaged in the thankless job of trying to reconstruct the wreckage of American youth. I find courts jammed with youthful defendants and equally crowded with parents and friends of those parents, determined only upon one course—that

of getting their boy or girl, as they call it, "out of trouble." I find that they go to any length of political pressure, monetary pressure, business pressure, the pressure of friendship, to restore that boy or girl to the place where he or she really gained the criminal instincts, which was in the indulgence of the home. And it becomes a sad task to oil the machinery of apprehension and detection, thus bringing closer the menace of reformatories and prisons for these children of crime who were brought to the portals of dishonor through the negligence of older persons who should have led them into upright paths.

Until the criminally minded person, the extraordinarily selfish person, the highly egotistical person, the ultragreedy person who wants what he wants and cares not how he gets it can be taught the inexorable lesson that he cannot get away with violating the laws of society without adequate punishment—until that day arrives, just so long will you have a constant menace of serious crime. Crime begins in America today in the cradle, and the greatest influence toward eradicating that sad condition is the hand which rocks the cradle.

I have said before that upon this forum rests a heavy obligation, first of a reconstruction of American viewpoint toward better parental discipline and a greater sense of law abidance beginning in the home. However, that is only the beginning of the problem which lies before you.

It may be of interest to know that only about 1 out of 4 of our criminals is arrested for his misdeeds. It may be of even greater interest to know that when a man commits a crime and starts upon his escape the easiest avenue toward freedom is after he has been apprehended by a law-enforcement agency. Far too many persons escape the clutches of punishment in the courts and after conviction, and, continuing this thought, you should remember that many of the men and women who are today in our penitentiaries are not even given an adequate punishment for the crimes they committed. The greatest mantle of safety in the criminal world is known as "copping a plea." The criminal realizes that he may commit 20 crimes and pay only for one; further, that he, through shrewd attorneys, through the bribing or frightening of witnesses, through the delays of law, through countless statutes which exist for his protection, may be placed in a haggling position with a prosecuting attorney, with the result that he bargains for his punishment.

It is a sad commentary upon our civilization that in the majority of our criminal trials the old definition of justice has been utterly and absolutely lost. I say this because in many of the cases there has been a process which I can liken only to the pushing and jostling of an auction sale, in which the matter of punishment takes a position of a commodity to be traded for and argued over, until at last the man who is guilty of murder comes into court and pleads guilty to assault. I submit that no criminal ever existed who would deliberately walk into court and plead guilty if he were not guilty. It is an absolute certainty that this man would not plead guilty to the full extent of his crime if through any possible means he might receive a lesser punishment. Therefore we have the amazing picture of a group of men aggregating thousands upon thousands a year who, through their very pleas of guilty, make our criminal jurisprudence a matter of disgrace in that they are allowed to confess a lesser crime than that of which they are really guilty. As long as this exists, just so long will the criminal world figure its profits as a businessman would figure the prices received for his merchandise, and just so long will the underworld count upon inadequate punishment as one of the aids in getting away with murder. Speaking of murder, may I place the thought before you that the average time served by prisoners in America for the commission of our most heinous crime, that of taking human life, is less than 4 years behind the walls of prison, a part of which time frequently is served in the position of trusty?

We are supposed to be one nation, one people—then why, I ask you, is the penalty for murder in one State merely that of life imprisonment, which in an aggregate of cases is followed either by parole or pardon within a few years, while in another State the penalty for the same crime is death? Why should the robbery of a store in one State bring about a sentence of 5 years, while in another a man is supposed to serve 20? Why should the hold-up of a bank in one community merit a prison term of from 1 year to life, with parole or some form of clemency usually extended after the first year, while in the neighboring Commonwealth a man may serve away the best years of his life in atonement? Why should there be no uniform laws governing these matters? Why should it be possible for a criminal to break the law and, by merely stepping across a State line, be free from pursuing officers who are hedged about by extradition technicalities when they seek to bring him back for his crime? Why should it be a State offense to sell various forms of narcotics in one part of the United States and no State offense whatever in another portion? Why should criminal jurisprudence be governed by one set of procedure here and another set in a different locality?

These matters are all local ones, and in the local community little attention is paid to them because they are not viewed from a national angle. However, while the citizen may look upon his crime only locally, the criminal views it from the standpoint of the entire United States. He knows where he can rob a bank and pay the slightest penalty. He knows where he can commit a murder and be eligible for clemency within a comparatively few years. He knows where courts are lax. He knows where prisons have, as criminals call it, "low walls that are easy to climb over." He knows where local legislators, seemingly intent upon the protection of the innocent, have written technicality after technicality into the State statutes, until it is almost impossible to convict an enemy of society. He knows where there are "fixers" who will guarantee freedom for the payment of a certain amount of money. He knows where there are politicians so eager for a criminal vote that they will gladly trade the safety of their community for it. He realizes all these highly important conditions because he is in the business of crime, and the only thing which can put him out of that business is for the American people to make it their business to combat crime and all of the filthy, stultifying influences which foster crime. Of those stultifying influences, may I say with utmost emphasis that the most important of all is rotten politics.

Time after time I have talked to honest chiefs of police about matters which are closest to them—the safety and the welfare of their cities. Time after time these men have told me that they are powerless to move against certain protected elements of lawlessness. They have their choice of remaining in office and striving honestly to do their duty to the utmost against such odds or of resigning their job and leaving it to be filled by a purely politically minded appointee of criminally dominated influences. It is to their credit and to the credit of the men who serve under them that the average police officer in this country tries to do his honest duty. To that end, he often faces the danger of politically protected bullets, knowing that when he attempts to arrest some fiendish lawbreaker it is within the realm of possibility that this criminal may shoot him down and be spirited to safety by the political influences which he has paid in one way or another for his protection. The policeman's life indeed today is not a happy one, and the greatest service that can be done by the American citizen is to take the shackles off the policeman and put them where they belong—on the wrists of the crooks.

Here today I ask you again, as molders of public opinion, as persons of influence in your community, to dedicate yourselves to a never-ending campaign toward the divorcement of politics and law enforcement. There is no sane reason why a warden of a prison, a district attorney, a judge, a sheriff, a constable, a policeman, or any other man who chases criminals should live in danger of the bull whip of political retaliation. Yet throughout the length and breadth of America we find that the ward heeler, the district leader, often the gangster himself, is practically immune from arrest or, at least, conviction. Inevitably the concealed but powerful politicians rise in his defense to set him free, sneering at the men who strove to place him behind bars.

As long as immunity from punishment exists in this country, then just that long will you continue to pay your individual crime bill of $120 a year. In these times when there is so much talk of taxes, why, I ask you, do you sit supine; why do you remain resistless against this draining force, which not only takes your money away from you but endangers your happiness, your homes, and your lives?

For the first time in history there is procedure against the forces which operate behind the guns of crime. Not until the Federal Bureau of Investigation began its campaign in such cases as those of the Urschel kidnaping, the kidnaping of Edward Bremer, of St. Paul, and of others, which came about coincidentally with the passage of laws which gave this Bureau the right to proceed in such cases, has there been a united effort to punish the sustaining forces of criminality. In the kidnaping of Mr. Urschel the active number of abductors was three men. However, in solving that crime we found that behind the scenes there existed more than a score of assistants, money changers, hide-out keepers, messengers, contact men, lawyers, aides, and camp followers of various kinds. The Bureau of Investigation not only sent the three main participants to prison for life, but brought about the conviction of a score of members of this gang who made it possible for the kidnaping to take place. A like record was made in the Dillinger case, where seven men who tried to kill our agents met with death and where a total of 26 followers—gun molls, hide-out owners, and others—were sentenced to prison.

In the Bremer case and others, the same procedure was followed and this was possible because the Federal Bureau of Investigation was entirely free from politics and was backed by laws with teeth in them. Free from the stultifying influences of politics, these men have pointed a way. They have shown what can be done when a body of men of fine character, properly trained in scientific investigation, backed by the proper laws, and given proper equipment are allowed to proceed upon a determined course for the welfare of this country. To that end, I point proudly to the record of the Federal Bureau of Investigation, which shows that 94 out of every 100 persons whom it takes into the courtroom for trial finds that there is only one exit, and that is one which leads to prison. May I add that for every dollar expended in making the Federal law a respected and feared thing, our Bureau has been able to return to the American taxpayer $8 in savings and recoveries.

At this time I wish to express my gratitude to the fine and loyal law-enforcement officers of America who have given us their cooperation in Federal cases, and again it might be wise to ask in your home town why local officers can work so well when they are protected by the proximity of Federal officers and why so many strange influences seem to hamper their steps when the case is purely a local one. Do not construe this as a criticism upon your officers. They would be most happy to have this mystery solved and these strange forces lifted from them—forces, I might add, which are like the old man of the sea, riding their shoulders, weighing them down, slowing their steps when they begin the pursuit of protected racketeering and protected crime. Crime in the aggregate cannot exist without either malfeasance or nonfeasance

in office. The fault is not that of the man on the job, but the fault of the man who owns that job, the man who can appoint a person to fill that job, and likewise take the job away from him.

I spoke a moment ago about the cooperation of the officer. How about the cooperation of the citizen? Where is it? How often do cases fail because there is no cooperation whatever on the part of the person who should give the greatest of all cooperation, the person who looks to the law-enforcement officer for the protection of his home and his happiness? What do we find in the trial of an average case? First of all, there is the man who doesn't want to go on the jury, a man who regards his business as of greater importance than that of protecting his home. Secondly, we find that there may be a dozen witnesses for the defendant, against one witness for the State. Some citizens are apathetic. More are frankly afraid. Cowards, to put it bluntly. Others can be reached through friendship or political domination to an extent where they actually will go on the witness stand and perjure themselves for the freedom of a man they know to be guilty. All this time they too are paying the per capita tax bill of $120 a year for crime. Is this not an utterly amazing situation? And is it not your duty to campaign relentlessly for better conditions in our juries, for more courage on the part of our citizens in testifying in criminal cases, and for greater insistence that the laws of our country are not only made more uniform, but are made laws for the protection of America instead of laws for the protection of the criminals?

A visit to almost any State capital will find some lawyer legislator spouting mawkish sentimentalities about the protection of the innocent. The percentage of innocent men who are sent to prison is so negligible as to be almost nonexistent. The thought in a cloak used by shyster lawyers in a concerted effort to defeat justice. If any innocent man is convicted in America, there are thousands of guilty ones who get away. The blame rests at the door of a well-named group of men—the lawyers-criminal. The Federal Bureau of Investigation has dedicated itself to sending such legal lawbreakers to prison, and has been successful in a number of outstanding cases, only to find that often in the community where these vultures existed, they were looked upon by the citizens as extremely shrewd and clever men. I submit that there is nothing clever in crime. I submit that it is sordid and that there is something sordid in the mind of the person who can find anything to emulate, or anything to applaud, in the vulturelike activities of such individuals.

The home, the church, and the school must be united upon a common purpose. We cannot correct existing conditions by apathy, by indifference, by supine submission to the dominance of criminally bloodstained influences. We cannot eradicate the outrages of arson, robbery, and murder by a gasp of astonishment when we read the headlines. There is only one way to fight, and that is to get out on the battle line and do something. We must insist upon law-enforcement agencies which are unshackled, which can arrest a criminal and make that arrest stick, which are composed of men properly trained for the jobs they occupy. It is one thing to put a uniform on a brawny body, and it is another thing to give authority to a properly trained brain. The time has definitely come when law enforcement, in all its branches, must be built into a career. The time also has arrived when to select the right person for the right job, a sum of money commensurate with the brains needed shall be paid for that job. Astonishment over the fact that some thousand-dollar-a-year jailer has taken a bribe to allow a supercriminal to escape should be changed to greater astonishment that a civilized Nation should be trusting job holders who can be paid only a thousand dollars a year for the task of keeping our "mad dogs" in check. This, in a greater or lesser degree, is applicable to every position and item of law enforcement.

Now I come to the most important matter in our tangle of criminality—that of sentimentalism and clemency. You who sit on the side lines often applaud when some hardened criminal, perhaps up for his fourth or fifth conviction, is severely lectured in court and given, we'll say, a 15-year sentence. You sit back, secure in your ignorance, believing that you will be safe for 15 years from this menace to society. That sentence has been a legal falsehood. Through the utterly amazing workings of our convict-loving parole lawyers, it is possible for that man to return to his life of crime in as short a time as 12 months. There have been actual cases where local judges have made political capital of the fact that they were sentencing men to long terms in prison, when, in truth, agreements had been made with defense attorneys whereby the sentencing jurist would sign a parole petition after a servitude of only 1 or 2 years. I state this so that you may make it your business to learn just what happens to the criminals who go through the courts in your communities, and ascertain for yourselves how much time they actually serve.

I hasten to add, however, that I am an active advocate of the principle of parole. I said the principle, not the present practices which exist in the administration of parole in many of our States. Certainly every possible endeavor should be made to rehabilitate the person who has offended for the first time against our laws. Crime cannot be cured by inhumanity. A casual of crime cannot be remolded into a worthy member of society by a punishment which leaves him embittered. The first offender should be charged as a first offender, with a commensurate sentence, with commensurate treatment, and commensurate efforts to restore him to the place he lost in society. But who is the first offender? It happens that in the perplexity of our laws, in the mass of technical barricades thrown up by lawyer legislators, either directly concerned with the defense of criminals or associated through friendship or otherwise with those who make their living by defense of criminals, it is almost an impossibility to define the first offender from the old and hardened one.

In some States it is possible for a felon to be listed as a first offender after a criminal history which shows him to have been a repeated inmate of correctional schools and reformatories and after having been repeatedly sentenced to jail and even to city prisons, industrial reformatories, and other institutions of this type. He may have started as a youth by committing a serious crime, which, because he was a youth, became a matter of record only as juvenile delinquency. He may have robbed and stolen for years and, through the technicalities of law, have been saved from penitentiary punishment. He may have committed a score of offenses against our laws, followed by a score of appearances in court. Yet, under our statutes, that man must be looked upon in the same light as the desperate, otherwise law-abiding citizen, who, faced by hunger, steals for the first time in his life.

As for the rotten practice of the fine theory of parole, I have said before, and I say again, that it is a national disgrace. Hardened criminals are being turned forth in many of our States under a multiplicity of laws which is utterly astounding. There are States which employ not more than one man to watch after and supposedly oversee the activity of thousands of roving criminals, many of whom have obtained their freedom through political affiliations. There are other States where prisoners merely report by letter. Do you suppose they confess every infraction they have committed? If you ever have seen a merchant who advertised that he sold inferior goods, that he cheated his customers, that he was dishonest in his trade practices, then I will grant that somewhere there is a criminal who willingly wrote to a parole board that he was again engaging in thievery, burglary, and murder.

Until recently, the matter of parole has been the domain of the sentimentalist and the sob sister. It is easy to weep over the fact that a man has been placed behind bars. It is easy, indeed, to shed a tear when one thinks of the fact that he is separated from his freedom and from those he loves. It is not so easy to remember the mangled, shapeless, horribly sprawled form of a murder victim upon the floor, beaten to death by the muscular hands of this very same criminal. Why do not the sob sister and the sentimentalist give some attention to the victims of crime instead of to the perpetrators of crime? Until this attitude is changed America remains in grave danger.

At the Federal Bureau of Investigation in Washington there exists a single fingerprint section devoted to the 12,610 men and women who are viewed by our Bureau as the most dangerous and deadly of the army of over 3,000,000 persons whose fingerprint records are on file. These are the kidnapers, who steal from the American home that which is loved best. These are the bank robbers who, with machine guns and superautomatic pistols, descend upon the depositories of this Nation's funds. These are the cowardly individuals who, firing from ambush, send dumdum bullets into the backs of our law-enforcement officers. These are the gangsters who, operating under the protection of filthy vote buyers, shoot down our citizens and loot our homes. Here are enough dangerous men and women to almost form a complete army division upon a field of battle. To move against them, special agents of the Federal Bureau of Investigation must be equipped with automatic shotguns, rifles and pistols, machine guns, armored cars, tear gas, and steel breastplates.

I hope I have painted a sufficiently ghastly picture of this superarmy of criminality. I hope you will remember every word of it and that you will not forget the most important fact of all—the records show that 3,576 members of this desperate criminal group have at some time felt the angelic mercy of parole, or probation, or pardon, or some other form of sob-sister clemency. Not only has the mantle of sentimentality, or worse, descended once but in some cases many times. Often these dangerous criminals have been arrested for new crimes before law-enforcement officials have been informed that prison gates had been thrown open from a previous sentence which they were supposed to be serving. That, in a nutshell, is the story of a national disgrace which has been brought about by this country's debauchery of sentimentalism and clemency. I sincerely hope you will not and cannot forget it.

PERMISSION TO ADDRESS THE HOUSE

Mr. MORITZ. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes on the Pittsburgh situation.

The SPEAKER. The Chair cannot recognize anyone to request permission to address the House until the special orders for today are disposed of. The Chair will state to the House that it is exceedingly important, as the Chair is informed, that some action be taken on the pending bill today because of a limitation of time. The Chair will recognize the gentleman after disposition of the special orders.

GROVER CLEVELAND

Mr. BOYLAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein an address by George Henry Payne, Federal Communications Commissioner.

Mr. SNELL. Mr. Speaker, reserving the right to object, how often does Mr. Payne have to have an address put in the CONGRESSIONAL RECORD?

Mr. BOYLAN. Of course, I am not able to answer that——

Mr. SNELL. I am willing he should have one in the RECORD occasionally, but I do not think it is necessary for him to have one there every week of the year.

Mr. BOYLAN. I do not think there has been one in the RECORD for a month.

Mr. SNELL. Has it been a month? I withdraw the objection, then, Mr. Speaker.

Mr. BOYLAN. Furthermore, the address is about a distinguished Republican, Mr. Theodore Roosevelt.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOYLAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by George Henry Payne, Federal Communications Commissioner, over the network of the National Broadcasting Co., on March 18, 1936:

Somewhere Ralph Waldo Emerson has said that when we come to examine the lives of some of the world's great men we are struck by the fact that their accomplishment seems small compared to their reputation. He draws the conclusion that it is the character of great men as much as, and sometimes even more than, their accomplishments that makes them great.

This certainly is true of Grover Cleveland, who stands out as one of the three great Presidents of the half century following the Civil War—the other two being Theodore Roosevelt and Woodrow Wilson. All three men were powerful and aggressive; all three carried out, against bitter criticism and antagonism, great and important undertakings, but all three loom large in perspective because of the greatness of their characters.

Strangely different, as Cleveland, Roosevelt, and Wilson were in character, education, political principles, and personality, they were as one in greater characteristics—force and aggressiveness and, above all, moral courage.

Surely any member of any party or any faction should welcome the opportunity to honor Cleveland, who, of the three, had the less advantage both as to education and opportunity, and yet rose to be the peer of the scholarly Wilson and the versatile and brilliant Roosevelt. At that he was the first of the three to point the way to political reforms that were scandalously necessary. Realist that he was, stubborn and ofttimes an unhappy realist, he represented the romance of our American life in his rise from humble surroundings to the greatest position and power—the "endless adventure"—as the author Oliver has called it—"the endless adventure of governing men."

Conservative as well as progressive can honor him today for, while he took strong positions, made fierce enemies, and fought aggressively, his honesty was never questioned nor his devotion to the people—the plain people from whom he came.

As one of his biographers has said, his words in praise of the great American, Carl Schurz, accurately described his own attitude toward public life.

"What our Nation needs—and sorely needs", Cleveland said, "is more patriotism that is born of moral courage—the courage that attacks abuses and struggles for civic reforms, single-handed, without counting opposing numbers or measuring opposing forces."

This moral courage he had in an unwonted degree, together with a sturdiness that led him to be misunderstood and to accept sadly that misunderstanding.

Several years ago Dr. John F. Erdmann, one of America's greatest surgeons, told me how, when he was the assistant to Dr. Joseph D. Bryant, the great surgeon of his day, Mr. Cleveland slipped away from Washington to go on board a friend's yacht and there have performed on him a most dangerous and excruciating operation without an anesthetic.

For reasons of state, he felt that this critical moment in his life should be concealed from the public, and throughout the country his enemies hurled insults and threats at him because it was popularly believed that he had gone off on a fishing trip at the time of a great crisis.

The story of his courage and patience and fortitude as told by Dr. Erdmann is one that I hope may some day be made public. Not until long after was it known that he was suffering in silence as he did so often—as he did so nobly.

It is natural that those who reread the life of Cleveland will try to see in his handling of various problems some suggestion for a solution of the problems of our day. This, of course, is the real reason for reading or studying history. It is George Santayana, I believe, who said that history was philosophy in action and, in turn, that that philosophy is soundest and most practical which is based on a distinguished and lofty study of history.

However, it will not be by his particular course under particular circumstances, but by his approach to the problems of his day that we will get the most inspiration.

Years after he had been President he described his early struggles and the characteristics that he believed had led to his rise from poverty to the Presidency. Speaking of his youth, he said that when he found he could not get a college training he "quite cheerfully set about finding any kind of honest work." Adversity, he declared, meant nothing to him; better suffer in adversity than be dishonest. And once having taken that course, he states of himself, he "actually enjoyed his adversities."

RESTORATION OF NATIONAL FARM LOAN ASSOCIATIONS AND FEDERAL LAND BANKS TO FARMER-COOPERATIVE CONTROL

The SPEAKER. Under the special order of the House, the Chair recognizes the gentleman from Nebraska [Mr. BINDERUP] for 10 minutes.

Mr. BINDERUP. Mr. Speaker, I am very conscious of my obligations as well as a desire to yield to my fellow Congressmen for questions and perhaps for a more detailed explanation on my subject, but as the time allotted to me is very limited I trust you will allow me to continue without these requests. I might add that this bill I am explaining this morning will be heard before the Senate Committee on Banking and Currency next Wednesday, and we hope to have it before the Agricultural Committee of the House within a few days and that we will be able to have it on the floor within the very near future, when, of course, ample time will be afforded for full discussion.

My case or subject this afternoon is the Restoration of National Farm Loan Associations and Federal Land Banks to Farmer Cooperative Control. I refer to the bill (H. R. 11502, introduced by me on February 27, which is a companion bill of Senate bill 4003, introduced by Senator CAREY, of Wyoming, and effects the following changes in the Farm Credit Administration:

First. Substitutes for the present supervisory authority, the Governor, a board of five members of which the Secretary of the Treasury shall be ex-officio chairman.

The four members to be appointed by the President shall be designated as Land Bank Commissioner, Intermediate Credit Commissioner, Production Credit Commissioner, and Cooperative Bank Commissioner, not more than two of whom shall be appointed from one political party. The President designates one of the members as vice chairman, who shall be the active executive officer of the Board. Term of office, 5 years.

Second. Provides that national farm loan associations shall elect four of the seven directors of each Federal land bank and the Farm Credit Administration Board appoints three—whereas now the Governor of the Farm Credit Administration appoints four, national farm loan associations elect one, production credit associations elect one, and borrowers from banks for cooperatives elect one. Directors must be actual residents of the district or division for which appointed or elected and must have been residents for 2 years.

Third. Provides for a credit agency board of five members in each Federal land-bank district, three of said members to be appointed by the Farm Credit Administration Board, one to be elected by Production Credit Associations, and one to be elected by borrowers from banks for cooperatives.

This board will exercise supervision and control over all credit agencies under the Farm Credit Administration in each district except the Federal land banks, and they shall be ex officio the director of the Federal Intermediate Credit Bank, the Production Credit Corporation, and the Bank for Cooperatives.

Fourth. The management of the Federal Farm Mortgage Corporation shall be vested in the Farm Credit Administration Board.

These amendments are all essential to the fundamental purposes of this bill—to restore the cooperative principles of the Federal Farm Loan Act of 1916.

This act of the first Wilson administration followed the study of European credit systems by the American commission in 1913, in which the two essential cooperative features prevailed—farmer ownership and farmer control. The act of 1916 was finally drafted by a joint committee on rural credits and the House and Senate Banking and Currency Committees, composed of the following Senators and Representatives:

Joint committee on rural credits: Carter Glass, Virginia, chairman; Robert L. Owen, Oklahoma; Henry F. Hollis, New Hampshire; Thomas P. Gore, Oklahoma; Hoke Smith, Georgia; Knute Nelson, Minnesota; James H. Brady, Idaho; Michael F. Phelan, Massachusetts; Asbury F. Lever, South Carolina; Ralph W. Moss, Indiana; Everis A. Hayes, California; and Willis C. Hawley, Oregon.

Total, 12.

Senate Committee on Banking and Currency: Robert L. Owen, Oklahoma, chairman; G. M. Hitchcock, Nebraska; James A. Reed, Missouri; Atlee Pomerene, Ohio; John F. Shafroth, Colorado; Henry F. Hollis, New Hampshire; Blair Lee, Maryland; Paul O. Husting, Wisconsin; Duncan U. Fletcher, Florida; Knute Nelson, Minnesota; George P. McLean, Connecticut; John W. Weeks, Massachusetts; Carroll S. Page, Vermont; Asle J. Gronna, North Dakota; George W. Norris, Nebraska.

Total, 15.

House Committee on Banking and Currency: Carter Glass, Virginia, chairman; Thomas G. Patten, New York; C. U. Stone, Illinois; Michael F. Phelan, Massachusetts; Joe H. Eagle, Texas; Otis Wingo, Arkansas; Emmett Wilson, Florida; Ralph W. Moss, Indiana; T. F. Konop, Wisconsin; W. W. Hastings, Oklahoma; Jouett Shouse, Kansas; H. B. Steagall, Alabama; Everis A. Hayes, California; F. E. Guernsey, Maine; F. P. Woods, Iowa; Edmund Platt, New York; George R. Smith, Minnesota; Charles A. Lindbergh, Minnesota; A. L. Keister, Pennsylvania; L. T. McFadden, Pennsylvania.

Twenty. Forty-seven in all.

That act has always been referred to as among the best examples of legislation—clear, concise, complete. For 17 years it remained unchanged in its fundamentals. It was accepted by American agriculture as our first national effort in cooperative credit. It succeeded beyond the fondest hopes of its sponsors.

The Government provided an initial capital of only $750,000 for each of the 12 Federal land banks, or a total of $9,000,000. By 1932 this had all been repaid by the borrowers who subscribed for 5 percent of their loans in stock except $50,000. Bonds secured by farmers' mortgages furnished the funds for loans to about 400,000 farmers through 4,500 national farm-loan associations amounting to $1,200,000,000.

These borrowers entered into contracts under the provisions of the Federal Farm Loan Act, under which, as stockholders of national farm-loan associations, which purchased an equal amount of stock in the Federal land banks, they were granted control of their local associations and the Federal land banks were to be managed by executives chosen by board of directors, a majority of whom were elected by such national farm-loan associations.

The Federal Farm Loan Board was made nonpartisan by the provision that no more than half the members could be chosen from one political party.

The Farm Credit Act of 1933 and the administrative acts subsequent thereto have changed this situation.

Yet Mr. Morgenthau, then Governor of the Farm Credit Administration, recognizing the contractual rights of the farmer stockholders and their proper jealous regard for the cooperative principles upon which the system had been founded and developed, made the following public statement July 2, 1933:

The institution which we hope to build through the Farm Credit Administration should be *farmer-owned* and *farmer-managed*. It should be a *decentralized* system, locally controlled, with a minimum of Federal supervision.

Have these principles been maintained? The act of 1933 abolished the Federal Farm Loan Board and vested complete control of the system in one man, the Governor of the Farm Credit Administration.

Thus the nonpartisan-board provision, under which the Presidents from 1916 until 1933 had selected members geographically representative of the various and diverse agricultural interests of the whole Nation, was abolished.

Now, 5,000 national farm-loan associations, with 650,000 farmer-borrower stockholders, owning $110,000,000 of Federal land-bank stock, elect only one director out of seven. The production credit association and borrowers from banks for cooperatives, which own no stock in the Federal land banks, each elect one. Surely this is exceptional in corporation law, and is particularly objectionable in an institution which has been built upon the principle of cooperative management. The Governor of the Farm Credit Administration appoints four directors. This gives him complete control of every Federal land bank. To make this control doubly sure, he has created the office of general agent in each land-bank district, an office not mentioned in the act of 1933 or any other legislation. He is the personal representative of the Governor. He and his staff dominate each bank, control the selection of officials and employees, and determine the bank policies to the minutest detail, if the Governor so wills.

Thus the cooperative principles of the Federal Farm Loan Act have been thrown overboard, and the farmer stockholders' rights have been violated, that supreme, autocratic control may be vested in Washington.

Not only has general supervisory control at Washington been taken away from a nationally representative nonpartisan board, not only have the Federal land banks been divested of all authority, but the national farm-loan associations, the heart of all the farm-loan system, have witnessed the destruction of their legal rights as cooperative stockholders.

They have been forced to adopt resolutions committing to Federal land banks full power over all questions of local management. They cannot choose a secretary-treasurer unless that man is approved by the Federal land bank. Though the Federal land bank makes a gross annual profit of 1 percent on all loans, the associations will not be permitted funds for ordinary operating expenses if in the selection of their officials or in their policies they fail to meet the approval of the bank. An association with $5,000,000 in loans gives the bank a gross profit of $50,000 annually. That is a sizable bank with $250,000 capital, but it can do nothing in protecting its interests on the loans it has endorsed, nor have any of the usual powers of stockholders and directors of a country bank. Outside attorneys handle the foreclosures, instituted without the consent of the association. Farms taken over are managed by nonresidents. Field men, planners, economists, graph and chart experts determine all the policies of the banks and the associations. The farmer stockholders have been left only one of the usual attributes of stock ownership—they pay the bills. There never will be any more dividends—the farmers will never be on the receiving end until the system is restored to practical, experienced executives.

I have copies of these contracts which have been imposed upon the national farm-loan associations. I commend them to your study as examples of the most unique and arbitrary unilateral contracts I have ever read.

The farmer borrowers are being regimented, and that, too, despite their capital investment. If the Government wishes to assume complete control of the farm-loan system, it should buy and retire the stock the farmers purchased under the representation that it carries the usual attributes of stock ownership.

What excuses are offered for this illegal and immoral destruction of our great cooperative credit system?—two:

First. That there was an agricultural emergency in 1933.

Second. That the Government has invested an additional $125,000,000 in the capital stock of the Federal land banks; that it has furnished about $100,000,000 for banks' surplus on account of the moratorium on principal payments; and that the Federal Farm Mortgage Corporation has purchased about $750,000,000 of Federal land-bank bonds.

The answer to the first excuse is that the banks and national farm-loan associations were from 1917 to 1933 manned by officials with years of experience in the system and with demonstrated capacity to handle the problem created by the emergency. Only one thing was lacking—adequate loanable funds. Congress supplied these. Had they been administered by these trained officials much of the waste and confusion would have been avoided.

There was set up in Washington a great group of theorists and planners. The St. Louis Federal Land Bank was nominated as the "guinea pig" to try out a lot of textbook theories about the farm-credit business. Then they swooped down on the other banks; abolished established and successful business practices. Recent eastern college graduates in farm economics, without any practical business experience, armed with Washington authority, supplanted the farm-loan executives, who, so far as real authority was concerned, became mere figureheads. The price of a reasonable degree of intelligent independence in protecting their institution against foolish, wasteful methods was a forced resignation—as too many former executives will testify to their sorrow.

[Here the gavel fell.]

Mr. DIRKSEN. Mr. Speaker, I ask unanimous consent that the gentleman from Nebraska be allowed to proceed for an additional 5 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BINDERUP. Not content with running the farm-mortgage business, the planners have had a perfect field day in Washington and in the banks in testing out all their pet theories in farm economics and in duplicating much of the work of county agents and agricultural colleges. Bureaucracy has fastened itself upon the farm-loan system and it will not voluntarily loose its strangle hold. The farmers must carry the burden. Dividends and credits for stock subscriptions upon payment of their loans will be restored only when these expenses of waste and extravagance are paid in full. The farms of America, not the Government, will ultimately bear this burden.

Mr. MASSINGALE. Mr. Speaker, will the gentleman yield for a question?

Mr. BINDERUP. I should prefer very much if the gentleman would let me continue, and at the conclusion of my remarks I shall be pleased to yield to the gentleman.

The emergency called, not for waste and theory, but for practical economy by the men who had demonstrated their fitness to run the banks.

Now, as to the financial excuses for this unwarranted destruction of the rights of farmer borrowers.

The $125,000,000 additional Government subscription to the capital stock of the land banks was made in January 1932. No attempt was then made to extend the Government control over the land banks and national farm-loan associations. The Government has not demonstrated in this or any other administration that it can operate as efficiently and economically through Washington bureaus as through trained business executives. Surely the Government can continue to entrust its funds to a cooperative credit organization of such demonstrated capacity as the Federal land-bank system. Then, too, this additional stock subscription is being retired, as the law requires, from the stock purchases of farmer borrowers who subscribe 5 percent of the amount of their loan.

As to the $100,000,000 advanced for surplus, this will be repaid by banks having a gross earning capacity in excess of $20,000,000 annually. And the repayment to the Government will be speeded if the heavy hand of bureaucracy is taken off the system.

As to the purchase of land-bank bonds by the Federal Farm Mortgage Corporation, it can relieve itself of this burden whenever it chooses, for most of the Federal land-bank bonds it has taken over bear a 4-percent rate. Four-percent Federal land-bank bonds of various issues, without any sort of Government guaranty, are now selling on the open market at from five to eight points premium. Please note the daily quotations in any newspaper. The Government can dispose of these bonds at a great profit.

If the Government chooses to hold these bonds, it will continue to realize a nice profit for its Federal Farm Mortgage Corporation bonds bearing rates ranging from 1½ to 3¼ percent. I think we should ask the Farm Credit Administration to furnish a statement of the profit it has made on all Federal land-bank bonds to date. This will demonstrate that the Government has not sacrificed anything in these bond transactions.

Perhaps there are some farmers who are not concerned over the loss of their rights as stockholders, the taking away of local control of their land banks, these bond transactions, and the great delegations of Government field men, planners, economists, and farm managers maintained at their expense. They are so practical that they are willing to forgive all these things if on a cold-blooded money basis it can be demonstrated that this new order of things saved them money, first, as general taxpayers, for most of the expense of the Washington bureau is paid out of the United States Treasury, and, second, as stockholders in associations which in turn own stock in their district Federal land banks.

So let us look at the financial record of the farm-loan system under Washington bureaucratic control.

The administrative expenses, by fiscal years, of the Farm Loan Bureau, beginning with 1923, when the intermediate-credit system was added to the Federal farm-loan system:

1923	$268,411.79
1924	354,374.46
1925	373,795.68
1926	441,845.84
1927	585,051.57
1928	740,786.33
1929	899,036.28
1930	954,302.23
1931	1,016,500.00
1932	990,940.00
July 1, 1932, to May 26, 1933	700,031.68

Farm Credit Administration:

1933	$8,347,640.00
1934	8,248,375.00
1935	9,954,884.00

The Farm Credit Administration seeks to justify this enormous increase in expenditures by the sweeping declaration that the increase in business is responsible, pointing out the other agencies which have been brought under its supervision. It also calls attention to the fact that only $345,934.52 was in 1935 charged to the Federal land banks. Admittedly these conditions justified a substantial increase, but this increase should be judged by what part thereof was necessary and what part is attributable to impractical and theoretical bureaucratic expansion.

[Here the gavel fell.]

Mr. GILCHRIST. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for another 5 minutes and I would like to interrogate the gentleman if he will yield to me.

Mr. BINDERUP. Certainly.

Mr. BANKHEAD. Mr. Speaker, reserving the right to object, does the gentleman want 5 minutes more to conclude his remarks or does he desire to have 5 minutes to yield for questions?

Mr. BINDERUP. I would like very much to have the 5 minutes to conclude my remarks.

Mr. GILCHRIST. Very well; conclude your remarks first, and then I shall ask the gentleman to yield.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BINDERUP. Federal land-bank borrowers while not affected as stockholders by the other Washington bureau expenses, are, as citizens and taxpayers, interested in an efficient and economical administration of national affairs. An example of this waste and disregard of the practical realities of the national agricultural credit situation is evident in the setting up of 1 central and 12 district banks for cooperatives, for which the Government has already furnished $140,000,000 of capital, though outstanding loans, many of which were taken from the business of the intermediate credit banks, on December 31, 1935, totaled only $50,013,329. By a simple amendment to the Intermediate Credit Act all those loans could have been taken care of with little additional expense. A record of loans outstanding of only about one-third the capital invested after two and a half years of operation is unique in American banking. But interest on Government capital is helpful in paying the high salaries and expenses of 13 unnecessary banks.

But that is beside the question. We are concerned only with the Federal land-bank stockholders who are called upon to bear this last-mentioned burden only as general taxpayers. Matters of this character, however, help to explain the foolish extravagance in the farm-loan system where Federal land-bank stockholders are directly concerned.

Another example of bureaucratic blundering at the expense of farmer stockholders was its failure to call $185,217,140 worth of 4½ Federal land-bank bonds on May 1, 1935. These bonds could have been refunded with an issue of 3¼-percent bonds, which would have effected an annual interest saving of over $2,300,000. On April 8, other Federal

land-bank 3¼-percent bonds were sold to refund other issues callable May 1. The New York Times of April 9, 1935, on page 31, quoted Charles R. Dunn, fiscal agent for the Federal land banks, to the effect that on the issues marketed on April 8 cash subscriptions of $500,000,000 were received, which was some $240,000,000 above the bonds offered, ample to refund the $185,000,000 issue. The issue sold on April 8 is now quoted at 102.

On November 1, 1935, when this issue was again callable, the call was not made. This $185,000,000 issue again becomes callable May 1, 1936, as does an $83,000,000 4¼-percent issue on July 1. I believe that we as representatives of the great farm States should insist that these issues be called.

Now, as to the operating expenses of the Federal land banks:

The Farm Credit Administration has refused to furnish the last monthly reports of the Federal land banks, the reports of the general agents' office, which is the fifth wagon wheel in the farm-loan system, and the operating expenses for each year for each of the banks. Interesting comparisons, damaging to bureaucratic control, could undoubtedly have been made. I hope you will join with me in insisting upon these figures so that we may aid the farmer stockholders in cutting out useless waste by restoring cooperative control.

However, some figures are available from which we can make reasonable deductions which go to explain why the Farm Credit Administration is so reluctant to furnish the requested statistics.

The operating expenses of the bank in my district, Omaha, for the first 10 months of 1935, were $2,469,294.75. This bank, which, from 1918 to 1930, paid an average annual dividend of about 10 percent, is having its substance wasted by the impractical theories and personnel imposed upon the bank. The continued management of that bank by President Hogan and his associates prior to 1933 would have been much more economical and efficient than through the supergovernment which Washington has imposed upon it.

The operating expenses of the 12 Federal land banks from July 1, 1933, to June 30, 1935, were $34,229,351.05. These expenses July 1, 1935, to December 31, 1935, were $7,763,949.09. The expense continued at practically the old extravagant level, though business is considerably less. Bureaucracy hangs on and continues to find new theories, to dictate bond management, to dominate the associations, to duplicate other agricultural agencies, and to assume to itself the virtue of alone being able to direct from Washington the business of the banks which the farmers of America have built and maintained.

Let us look at some of the figures which are available:

In 1934, 190,147 loans were closed by the Federal land banks for a total of $730,367,140. The banks had 10,495 employees.

In 1935, 58,968 loans were closed for a total of $248,671,200. Total employees in 1935 were 9,162; only one-third the business, but the number of employees scarcely affected. This helps to explain the refusal to furnish a statement of the banks' operating expenses.

Bureaucracy has devised ways and means to perpetuate itself at the expense of the farmers' banks despite the decline in business.

So much for the first two provisions of H. R. 11502. The desirability of establishing a credit agency board in each district to manage all the other credit agencies except the Federal land banks is obvious.

They occupy a different—a short-term credit field. They are owned almost entirely by the Government. Their operations should not be confused with the Federal land banks, owned by the farmers, with the resulting diversion of land-bank officials from the long-term-mortgage problems which demand all their attention. The separation will eliminate the general agent supergovernment over the Federal land banks, and free their executive officials to cooperate with farm-loan associations in restoring practical and economical management.

The fourth provision is necessary to provide a management board for the Federal Farm Mortgage Corporation.

I conceive that this Congress, representative of the great farm States of the Nation, has no more important duty here than the restoration of the Federal farm-loan system to its fundamental cooperative principles. H. R. 11502 is good Americanism, good democracy, and a recognition of our legal and moral duty to the farmers of America who purchased stock in the farm-loan system, 650,000 of them, who have invested $110,000,000.

I venture the assertion that with the restoration of cooperative control, as provided in the Farm Loan Act before 1933, which is accomplished by H. R. 11502, the personnel and expenses of the Farm Credit Administration of Washington and each of the Federal land banks can quickly be reduced by 50 percent, and that a practical administration of the banks, freed from autocratic Washington dictation, will not only effect these economies but will otherwise result in more efficient, sympathetic, and profitable administration of the banks. The past records of the Federal Farm Loan Board and of the Federal land banks offer convincing evidence of the correctness of this statement.

THE FOREIGN SERVICE

The SPEAKER. Under the special order of the House the gentleman from Massachusetts [Mr. MARTIN] is recognized for 5 minutes.

Mr. MARTIN of Massachusetts. Mr. Speaker, I desire to protest to the House the employment by the State Department of such a large percentage of men and women of foreign allegiance in our Foreign Service. It is true, for the most part, they are clerks, and a majority are in the lower-paid brackets. Nevertheless, they occupy key positions, and through their hands move highly important data and information. There can be no secrecy in our Foreign Service, when, out of 1,633 clerks employed in foreign countries, 919 claim loyalty and allegiance to another flag and another country.

Our procedure is a marked contrast to that of foreign countries in America. Go to even the smaller embassies in Washington, and you will not find Americans employed in handling confidential papers.

These are disturbing days. With breathless excitement we watch events unfold in Europe which spell either war or the peace of the world. The attitude of America is of foremost consideration. Every country is anxious to influence our attitude. With the fullest respect to our clerical force abroad, one may question whether, in a great crisis, the clerk of foreign loyalty would not sacrifice the American Government, who pays his meal ticket and puts him in a confidential position, for the welfare of the country of his birth and loyalty. It would be natural for the clerk to do so.

In the handling of papers and work dealing with peace and friendly relations, we should not place our trust in foreign nationals. Neither should they have access to our files and thus open to foreign governments information which properly belongs only to the American Government.

The State Department prides itself on the secrecy of its dispatches and moves. How can there be secrecy when the whole picture is open for the inspection of men and women clerks of foreign loyalty? Why should aliens, in many instances, assemble the data as to what foreigners should be permitted to come into the United States? That is a most pertinent question. In the struggle for foreign trade, which should be an essential part of the work of our representatives abroad, we would unquestionably make greater progress if there was a 100-percent American drive behind the effort. I would not expect a foreign national to be wildly enthusiastic about American efforts to win trade from concerns in his own country.

When I observe how American interests have been sacrificed in some of the reciprocal treaties we have negotiated, I am forced to wonder if some of the data collected was not assembled by some of the foreign nationals who live on the American taxpayer but whose hearts are with their own countries.

There are 147 interpreters and translators in diplomatic missions and consulates. Fifteen are Americans and 132 are foreigners. Of the total number, 69 receive salaries of more than $1,000 a year and 78 less than that amount. I can understand the need of a number of foreign translators, but certainly the splendid schools of America turn out many students who would gladly take one of these positions and do the work well.

Some 15 Chinese writers are employed and their salaries range from $120 to $529, and I can concede readily it would be practically impossible to replace them.

The messengers, gardeners, janitors, doorkeepers, and minor employees number 1,084. The salaries of 26 are in excess of $1,000 and 1,058 below that sum. Of this group, 58 are Americans and 1,026 are foreigners.

The clerks employed number 1,633, and of this number only 714 are Americans. Of the 919 foreigners, 28 draw pay in excess of $1,000.

In considering these salaries it is only fair to recall that owing to the depreciated value of the American dollar they are paid an additional 40 percent. In other words, a clerk whose salary would be $1,000 would actually receive $1,400.

The plea is that it would cost more to employ Americans. That might have been true in the good old days, but it is not so now, and there is no likelihood, judging from our progress in the last 3 years, that it will be so in the immediate future.

In all the principal cities of Europe there are competent Americans anxious for this work. There are hundreds of American boys and girls coming out of our colleges who would jump at the opportunity of work abroad. The pay might be small, but it is infinitely better than idleness, and the average American would welcome the chance.

Furthermore, I am informed there are abroad many American World War veterans who could do this work and would like the chance to increase their income. Every foreign country is insisting employment shall go only to their own nationals, and why should not the American Government follow the same sound policy? I believe it is high time the State Department awakened to the unemployment situation of Americans, both at home and abroad, and gave more of these positions to Americans. [Applause.]

The SPEAKER. Under special order of the House the Chair recognizes the gentleman from Nebraska [Mr. LUCKEY] for 10 minutes.

Mr. MORITZ. Mr. Speaker, will the gentleman from Nebraska yield to me for 2 minutes?

Mr. LUCKEY. I will.

Mr. MORITZ. Mr. Speaker and Members of the House, the gentleman from Nebraska has kindly yielded to me 2 minutes, and in that time I want to call attention to the sad plight that Pittsburgh is in today. Nothing can be said which exaggerates its distress. I left Pittsburgh yesterday at noon by plane. Since that time things are worse. All lights are cut off, all gas, all heat, and there is a shortage of food.

In the past we have had floods in other parts of the United States and the Members of the House have come to the aid of the people with liberal appropriations for relief. I am asking for that now. I would not have had to ask for that relief if we could have gotten more action heretofore in both Houses. Last year we passed a bill for the construction of reservoirs to prevent a situation just like this. The Senate has that bill now. We are still waiting. The city of Dayton had a flood in 1913, and reservoirs were constructed there afterward. We always do things after we have suffered a terrible loss in lives and property. I suppose it is the course of events to lock the stable after the theft. I am telling you that Pittsburgh is very hard hit. Men will be held out of work in the mills. I have seen the mills and they are submerged in water, the stores are flooded, and skiffs are running through the streets. Much merchandise is destroyed. I cannot exaggerate the situation. Whatever is said does not adequately describe the tragedy, and I kindly ask the Members to help me get this bill through for an appropriation for relief of the destitute in Pittsburgh.

W. J. BRYAN

The SPEAKER. The Chair recognizes the gentleman from Nebraska [Mr. LUCKEY] for 10 minutes.

Mr. LUCKEY. Mr. Speaker, I represent the first district of the State of Nebraska, the district that at one time was represented by the great Commoner, and I ask your indulgence that I may make a few observations at this time regarding my old neighbor and friend.

In these turbulent times, when war clouds are hovering over the world, when humanity is crying out for peace, and there is no peace, we can well pause for a few moments and contemplate the admonitions and teachings of one of the greatest contemporary apostles of peace. Today, the 19th day of March, there occurs the birthday anniversary of one of America's most illustrious sons and one of the world's great leaders in the cause of universal peace—the great Commoner, William Jennings Bryan. [Applause.]

It is now 40 years since the youthful Bryan, like a meteor out of the west, became the standard bearer of our great Democratic Party. For nearly a third of a century he held a commanding place in its councils. But even a greater place did he hold in the hearts of millions of the humble citizens of the land, whose cause he championed so nobly. Three times he was the standard bearer of his party, and three times he met defeat. But from each defeat he rose again, stronger and more illustrious than before. Whence came this power and whence this ever-growing popular acclaim?

The answer is that he consistently championed the cause of the common man and the cause of social justice. This he did with a fervor and a zeal that grew out of his religious faith. Armed with an undying faith in his God and a deep and sincere love and understanding of the common people, he never swerved from the course that made him the true defender of the rights of the humble against the powerful forces of privileged and entrenched greed. His great leadership paved the way for many a liberal reform measure. His great public service radiated from him influences for good, for clean government, for clean living, for faith in the Christianity of our fathers.

But not only was Bryan a great political leader and reformer, he was even greater as an advocate of national and world peace. This naturally followed from his dicipleship of the great Prince of Peace, who taught us the Golden Rule. He believed that national righteousness was a prerequisite to national and world peace. He believed that justice was a nation's surest defense. Speaking before the House of Lords in London in 1906, he said:

> If peace is to come in this world, it will come because people more and more clearly recognize the indisoluble tie that binds each human being to every other. If we are to build a permanent peace, it must be on the foundation of the brotherhood of man.

It was on the occasion of this address, delivered in the House of Lords, that the audience, representing the flower of European intellect and thought—an audience not easily moved—rose and acclaimed the speaker.

When the World War clouds rolled over Europe Bryan was among the first to sense the real danger. He became an ardent advocate of strict neutrality, and as Secretary of State he opposed loans to foreign powers, holding that such a policy could have only one result—our ultimate entry into the war. During those trying times he gave his best to save his country from the catastrophe that loomed ahead. When we were launching on a policy of preparedness Bryan considered such a policy not only a menace to our peace and safety, but a challenge to the spirit of Christianity. The race in armaments he deemed a false philosophy—one which inevitably must lead into difficulties. At that time he was condemned and ridiculed. But who today dares to challenge the correctness of the position he then took? We have sacrificed thousands of our young manhood; we have wasted billions of our substance; and still the world is neither safe for democracy, nor have wars ceased. The mad armament race can have only one outcome—the ultimate world conflict resulting in the annihilation of our present civilization. Bryan saw the futility of it all.

Great as Bryan was as a political leader and as an advocate of peace, he was still greater as an exemplifier of a Christian life. In his religious writings his deep-spirited insight carries conviction and inspiraton. In them he has given us some of the finest gems in American literature.

In closing may I quote just one paragraph of his, which we may well heed:

> The enlightened conscience of our Nation should proclaim as the country's creed that "righteousness exalteth a nation" and that justice is a nation's surest defense. If there ever was a nation it is ours—if there ever was a time it is now—to put God's truth to a test. With an ocean rolling on either side and a mountain range along either coast that all the armies of the world could never climb, we ought not to be afraid to trust in "the wisdom of doing right."

[Applause.]

EXEMPTION FROM TAXATION OF CERTAIN ASSETS OF RECONSTRUCTION FINANCE CORPORATION

Mr. REILLY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation and reaffirming their immunity.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3978, with Mr. WHITTINGTON in the chair.

The Clerk read the title of the bill.

Mr. HOLLISTER. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. RICH].

Mr. RICH. Mr. Chairman, we are now considering the taxation of shares of preferred stock of banks while owned by the Reconstruction Finance Corporation. I have something to say with reference to that, but I call the attention of the House to the fact that yesterday I spoke against increasing the appropriation for idle farm lands contained in the bill we had under discussion, and made the statement that we were wrecking the country. My colleague from Virginia [Mr. WOODRUM] later on commented upon those remarks and stated that I was absent from the room.

Mr. PATMAN. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PATMAN. The rule granting us 4 hours' debate on the bill under consideration provided that the debate should be confined to the bill. Many of us are unable to get time to properly discuss this bill. I think the time should be used for that purpose and not for any other purpose, and I make the point of order that the gentleman is not directing his remarks to the subject under discussion.

The CHAIRMAN. The gentleman from Pennsylvania will confine his remarks to the bill.

Mr. RICH. I am talking about the bill, and I am on the gentleman's side, too; this he will find out later. I just make mention of the fact that the flood situation is so bad in the west branch of the Susquehanna Valley, Pa., at Muncy, Williamsport, Jersey Shore, Lock Haven, and other points that necessarily I absented myself to go to the War Department and the Red Cross to secure their aid to do something for the people of that vicinity. They needed boats to get the people to high ground, food, and clothing.

I shall not dwell very much on what the gentleman from Virginia [Mr. WOODRUM] stated in reference to me, but I shall take opportunity sometime later on, because I am just as much in favor of protecting the interest and welfare of the country as any individual in it; and when it comes to making a statement that I am opposed to taxes, that does not stand good, because I voted to increase taxes. The most serious question facing us today is to stop the ruthless expenditures that have been going on and bring in a good tax bill and try, if possible, to save this Nation. The serious situation confronting the Nation is ahead of us, and not behind us, and we should do things in a sound, sensible, sane business way. In order to get there faster, I will state to the gentleman from Virginia, we need more men like Senator CARTER GLASS and Governor BYRD if we hope to get there soon.

We are getting on to the point of taxation. We must have less spending or more taxes. That is absolutely essential to keep the country from being wrecked. No one knows it better than the gentleman from Virginia. Ever since I have been a Member of this House, and for years before, this Nation has been issuing tax-free bonds. Every time we consider any legislation in the House endeavoring to stop the issuance of tax-free bonds someone puts a wrench in the machinery, and the bill never gets through. Members of Congress always have some reason why we should not stop the issuance of tax-free bonds which give the men who have nothing to do, with a lot of money, the rich men of the country, an opportunity to make their investment in securities that do not contribute anything toward the support of the Government. This is not right and should be stopped. Our tax base is getting narrower and narrower, and eventually you are going to kill what we call business, because you are afraid to put taxes on anything but business enterprise, and business enterprise is the thing today that is giving employment to the people of the country. Kill the business enterprises, and you kill progress, you kill the goose that lays the golden egg, you kill employment. Business has created initiative in mankind and permitted them to go ahead. Kill business, and what have you left? We must take care of the unemployed. We must take care of the people who want jobs and give them work in order to support the Government, and not have the people of this country supported by the Government. That will break it down eventually. That is what this administration is doing. Read my remarks of yesterday.

What is the object of this bill we have under discussion now? I realize there would be many opportunities to stop tax-free bonds and tax-free stocks if they were not Government funds. The only reason I want to tax this stock that is issued by the Reconstruction Finance Corporation is because this is an opportunity to get an entering wedge. We must start sometime. Probably more of the Members of Congress will not think they are injuring some constituent back home if they start now. Perhaps they will have enough backbone and enough desire to stop the thing they want to stop if we will start right here on the taxing of securities owned by the Reconstruction Finance Corporation. If we do that, probably this will be the entering wedge to stop tax-free bonds.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield.

Mr. O'MALLEY. Can the gentleman explain to us, who have been unable to get time on this bill because we oppose it, by what procedure this bill comes in and what the possibilities would be if all committees who had bills defeated were able to bring in similar bills under similar conditions?

Mr. RICH. I presume that the bankers of this country—and I am one of them, as I am interested in a couple of small banks in my country—have no more right to tax-free bonds than the farmers or the laborers in this country. [Applause.] It has come to the point where we in the Government must obey the golden rule—this I try to do in my business—treat everybody alike. What right have you to give the bankers of this country tax-free stocks and permit them to issue certificates and get interest on them, when you do not let the farmers do it? That is one reason we have the Frazier-Lemke bill here. Farmers have the same right to demand those things that the bankers have. We must stop tax-free securities by the Federal Government rather than issue more, regardless of who may own them. [Applause.]

Mr. REILLY. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield.

Mr. REILLY. Does not the gentleman understand that if this bill is defeated the bankers will not pay one cent of the tax, but it will come out of the treasury of the Reconstruction Finance Corporation?

Mr. RICH. I told the gentleman a few minutes ago that I hoped we had enough men in the House to start right

here and stop tax-free stocks and bonds. If we can defeat this bill, eventually we will be able to stop tax-free bonds, and that is what I want to try to do. I do not care who owns the stock, the Government or an individual—individuals make up the Government, so what is the difference?

Mr. REILLY. Will the gentleman yield further?

Mr. RICH. I yield.

Mr. REILLY. Is the gentleman not aware of the fact that the farmers do get tax-free securities when their mortgages or bonds are undertaxed?

Mr. RICH. I do not know of the farmer getting tax-free securities. We want to treat them all alike, I said. We are not giving the farmers any undue advantage over the bankers. So eventually we are hoping to correct that situation. It is a Government evil, issuing tax-free stock and securities; that only helps the rich, and I am for the poor taxpayer.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. RICH. I yield.

Mr. PATMAN. Is it not a fact that if we use the same logic and the same reasoning in connection with the farmer, when the Federal land bank purchases a note or a mortgage against a farmer at one-half the value of the farm, then we should permit that farmer to apply tax exemption on one-half his farm when the local tax assessor comes around; that is, if we adopt the same principle for him that is embodied in this bill?

Mr. RICH. I presume the same thing would apply, that we should treat the farmer the same as we treat the banker. I think it is imperative now that tax-free securities should be eliminated by all Government agencies; that we should have a uniform amount of taxation, whether it be the farmer or whether it be the banker or whether it be the labor unions or whoever it is, so that we must pay the same rate of taxation. That is what I would hope would come out of this bill if we defeat it. [Applause.]

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RICH] has expired.

Mr. HILL of Alabama. Mr. Chairman, I think this bill is of such importance that the membership of the committee ought to be here, and I make a point of no quorum.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and seventeen Members are present, a quorum.

Mr. HOLLISTER. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. DIRKSEN].

Mr. DIRKSEN. Mr. Chairman, to a House that is seemingly gun-shy on banking legislation, I know of nothing more persuasive for the passage of this bill than the remarks just made by my good friend and colleague from Pennsylvania [Mr. RICH]. [Laughter and applause.] The gentleman confesses to us that he is a banker. He states that he is opposed to the bill. If that be true, and if this House can be frightened into voting for or against all legislation that comes out of the Committee on Banking and Currency because it is in behalf of or against bankers, then you have a banker testifying against this bill, which, by that token, ought to be persuasive enough to pass this bill today. [Applause.]

Someone raised the question as to why, after this bill was defeated, it should come before the committee again. I will say, first of all, that when that bill was before the committee 92 Members of this House failed to vote. They were absent. They constitute 20 percent of the membership. This in itself certainly is reason enough why we ought to have a reconsideration of this bill.

Secondly, I suppose we as members of the Banking Committee were lacking in eloquence and persuasion to make the provisions of that bill intelligible to the Members of this House, and if we have failed in this respect we ought to try all over again. We would be derelict in our duty if we permitted the Members of this House to wander around in the labyrinths of misunderstanding and misapprehension. So the bill is back, and I hope it will pass. I say to you very frankly that it may get only one vote, and that vote may be mine. Certainly I shall vote for the bill. In doing so I shall not be unmindful of the fact that the State of Illinois has a greater interest in this bill than some 15 or 20 States put together. The R. F. C. loans on preferred stock to the 205 banks in Illinois is more than $78,000,000. The nearest to it is Texas, with $21,000,000. Then you have a variety of States with only $1,000,000. The State of Illinois, the banks of Illinois, and the people of Illinois, therefore, have a greater interest in this bill today than any other State; and being quite mindful of that fact I shall vote for the bill.

We bring the bill before this House and recommend its passage for a variety of reasons. In the first place, it is a very proper bill, because we are protecting the sovereignty of the Federal Government. Secondly, it is a fair and an equitable bill because the Reconstruction Finance Corporation is an arm, an integral instrumentality, of the Government; and unless we pass this bill we are going to clog this instrumentality in its proper operation for the banks in all the States of the Union. The third reason why we have the bill before you, although perhaps it may not be considered as a reason, is the fact that it would be unjust and unfair to poke Santa Claus on the nose as a reward for his good ministrations. When the R. F. C. came into the State of Illinois, and not only saved but rehabilitated and resuscitated any number of banks, what ingrates we would be if we failed to protect the R. F. C. by exempting this preferred stock from taxation in Illinois. I do not believe any other reason is necessary in order to point out to the House the necessity for this bill. This good work must go forward without obstacles.

Some opposition has been developed, led largely by my good and ingenious friend from Texas [Mr. PATMAN]. I want to say to him, with all deference, that I think he puts up the most ingenious, the most plausible, and the most unsound argument I ever heard. Now, let us analyze the arguments of the gentleman from Texas. In the first place, he comes before this committee and states that by a law passed in 1864 giving States, counties, and municipalities the right to tax holders of national-bank stock, that by virtue of existing law today the R. F. C., as a holder of this preferred stock, ought to be taxed. When you go back to 1864 and examine the background under which our national banking system was set up you will find that the reason that provision was put in the bill was as a sop in order to get votes. I had them send me all the CONGRESSIONAL RECORDS of that 1864 session of Congress, and so, last night by lamplight, I examined into the background.

Is there any reason under the new circumstances that are presented in 1936 that this Congress cannot expressly or inferentially repeal anything that was done in 1864? We have done it before and we can do it now to meet new conditions. When it becomes necessary to protect the sovereignty of the Federal Government there is no reason in the wide world why it should not be done. That is argument no. 1. Argument no. 2 is that you might be favoring the R. F. C. as against a private holder of preferred stock. For example, the R. F. C. might go into Texarkana, Tex., and take $60,000 of a $100,000 issue of preferred stock, the other $40,000 being sold to citizens in that town. The argument is advanced that if you exempt the R. F. C. you still permit taxation of the other $40,000 held by private citizens. There is no soundness in this argument for the reason that dividends to the R. F. C. are limited to 3½ percent.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. DIRKSEN. Mr. Chairman, I shall not yield; the gentleman had his time yesterday.

The $40,000 held by private citizens returns a greater income; so you have a cushion of 5 percent or 6 percent as against 3½ percent to the R. F. C. You have an allowance there to provide for taxes in the case of a private holder, and so this argument does not hold.

Thirdly, they said if we apply this bill we are discriminating in favor of the Federal Government and the national banks as against State governments and State banks, and that we are removing property which is assessable and out of which taxes might accrue to the State and the municipality. Let us examine it very briefly in this fashion: Here is a bank with $500,000 of capital stock. It is in an impaired condition. The Comptroller of the Currency and the Reconstruction Finance Corporation step into the picture and finally

they say, "Here you have $500,000 of capital stock on the books, but it is worth only 50 cents on the dollar."

So that while your ledger, your figures, and all your paraphernalia show a capital stock of $500,000, the fact of the matter is that the $500,000 is only worth $250,000. They reform the capital structure and reduce it so as to reflect the actual value of $250,000. Have you taken away anything from the State by so doing? No. The reason is you do not assess against the par value of the stock. In every case you assess against the actual value of the stock, and whether it be Texas, Illinois, or any other State makes no difference. The assessor and the tax collector can come in and collect only on $250,000 of value, irrespective of the fact that there was originally a capital structure of $500,000. You have not taken a dime away from the State. When the R. F. C. steps in and subscribes to the preferred stock it is simply repairing the condition of that bank and takes not one dime away from the State. There is the argument in brief against this bill. The argument is thoroughly unsound, very ingenious and plausible, and is presented for the purpose of handicapping an arm of the Federal Government in carrying on its benevolent work in connection with rehabilitating the bank structure of the country.

Mr. Chairman, I have just this final word to say in connection with my own State. The R. F. C. has subscribed to stock, notes, and debentures to the extent of more than $78,000,000 in the State of Illinois.

[Here the gavel fell.]

Mr. WOLCOTT. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. DIRKSEN. Mr. Chairman, I suppose, on the basis of a tax rate of something like $68.55 a thousand, where we assess one-half of the value, that the total amount of tax might be as much as $2,500,000 on that amount; but on the other side of the ledger what has happened? The very fact that the R. F. C. has come in and bailed out a lot of our banks has created millions and millions of dollars of assessable value. In the case of a single bank in Chicago, where the common stock was selling for $24 a share before the R. F. C. went in, it is now selling for $174 a share on the market, and because of the R. F. C. rehabilitation it has added $112,000,000 worth of taxable value to the property of Illinois. Along with that, it has saved those banks, saved the depositors, and enhanced the income of the stockholders.

Mr. Chairman, is there anybody so bold as to say that if we pass this bill we are going to encroach upon the taxable values for State purposes and take something away that was formerly there? What is actually happening is that we are in no sense infringing upon the taxable values of the State. As a matter of fact, we have only added new values because of the R. F. C. operation. In conclusion, may I say that whether this bill gets any other votes or not it will get one vote from me, representing in part the State of Illinois. I admonish the Members that we have a more vital and a larger interest in this bill than any other State in the Union.

Mr. FORD of California. Will the gentleman yield?

Mr. DIRKSEN. I yield to the gentleman from California.

Mr. FORD of California. I was going to ask the gentleman from Illinois to give the other side of the picture in the case of the Texarkana bank, if the R. F. C. had not gone in there, but I note he has given it in the case of a Chicago bank.

Mr. DIRKSEN. Mr. Chairman, I yield back the balance of my time.

Mr. REILLY. Mr. Chairman, I yield 7 minutes to the gentleman from North Carolina [Mr. HANCOCK].

Mr. HOLLISTER. Mr. Chairman, I also yield the gentleman from North Carolina 5 minutes.

Mr. HANCOCK of North Carolina. Mr. Chairman and Members of the Committee, I hope I may proceed for a few minutes without interruption. I shall then be glad to yield for questions.

This bill is sound, meritorious, and in the public interest. Its passage will merely restore to the Reconstruction Finance Corporation, an instrumentality of the Federal Government, as I stated on the floor February 25, its constitutional immunity from taxation, which immunity Congress unquestionably intended it should have at the time of the passage of the act in 1932. Its necessity arises as a result of a recent decision of the Supreme Court in the case of Baltimore National Bank against Maryland State Tax Commission, in which the Court held that article X of the act specifically exempting the Corporation, its franchise, capital, reserves, surplus, and income from taxation, both State and Federal, was not effective in the face of section 5219 of the Revised Statutes passed in 1864 which expressly authorizes States to tax national-bank shares, within certain limitations, regardless of ownership. The immunity from taxation upon the passage of this bill applies to the R. F. C. alone because it is a Federal agency. The bill, therefore, does no more than to close an unintended legislative gap. It will not in any way affect the rights of any State taxing authority or municipal authority to levy taxes against the preferred stock, notes, or debentures held by any individual or other corporation.

Unless Congress acts on the bill now before it to exempt these holdings of this Government agency, the State and other local authorities will go ahead and try to collect their money, following the Supreme Court decision upholding such position in Maryland. The entire burden of additional taxes will fall upon the Federal Government directly and indirectly upon the taxpayers and people of America. As a result, the R. F. C., which stepped in—good Samaritan-like—to help rebuild the capital structure of a lot of banks in this country which might otherwise have been compelled to close their doors, will have to pay for acting in the public interest. Since the financial repair and rescue work of the R. F. C. through its preferred-stock and capital-note campaign has not been generally understood by the public, it is naturally expected that some should see "red" when mention is made of extending aid to these institutions. After the bank holiday and a clean bill of health was given to a majority of the banks everywhere, there remained many with a weakened capital structure. They were too good to close and too weak to remain open for long. Portfolios of the banks were jammed with collateral which might one day come back but which for the moment was without marketable value. To have written off all these erstwhile real assets would have left many banks in a condition where their capital would have been so seriously impaired that State and Federal supervisory officials would have had no choice but to close their doors.

The country's nerves, as all of you know, were in no condition to hear further banging of bank doors. "Reconstruction" was necessary, as the name of the great Federal agency was called which came to their rescue. The Reconstruction Finance Corporation started its repair work to protect the depositors and save the values of the communities in which these banks were located. It proposed to rebuild the capital structure of these institutions through the lending of Government funds. Because of the varying laws in different States, the plan involved preferred stock in some cases, capital notes in others, and debentures in still others. So that the plan would not brand every weak bank in the country and possibly be conducive to further runs, the R. F. C. solicited the cooperation of several of the strongest institutions, so that there would be no discrimination. In the execution of this reconstructive program, the R. F. C. entered the picture, not for the purpose of going into the banking business, nor for the purpose of lending money at a profit; its one objective was to save the communities involved and put these institutions back in a position to function in behalf of the public. What Member of this House would have opposed the R. F. C.'s effort to extend assistance in this way to his own community? Where is the man who has so little gratitude that he will not express his appreciation for the splendid accomplishments which this campaign has brought about? Who would vote for an amendment that would make it more difficult for some communities that have not yet had their institutions repaired?

In carrying out this program the R. F. C. borrowed money from the United States Treasury at 2¾ percent. Mr. Jones, chairman of the R. F. C., in working out the plan, figured that his expenses of operation would be about one-half of 1 percent, and that would leave one-fourth of 1 percent to cover individual losses. This clearly shows that there can be no profit to the Government with which to pay taxes. On this basis, the institutions selling the R. F. C. preferred stock or capital notes were required to pay 3½ percent for the 5 years, and 4 percent thereafter. This is a contractual relationship between the lender and the borrower and cannot be changed except by mutual consent. This program involved no replacement of private capital, because the agency took only what individual interests failed to subscribe.

As a matter of fact, however, the confidence which the R. F. C. showed in these institutions by its willingness to purchase the stock or notes greatly influenced many local citizens to come to the rescue of their banks, and the campaign has involved increasing capital stock by individuals in the various communities to the extent of approximately $150,000,000. The banks, under the agreement with the R. F. C., are permitted to retire the issue as rapidly as improved conditions dictate. It is not an exaggeration to say that a majority of the 6,000 banks furnished capital by the R. F. C. would in all probability have been forced to suspend, Mr. Jones said recently in a statement before our committee. This would have come on the heels of a loss to the country of 5,500 banks in the emergency between 1931 and 1933.

It requires no great stretch of the imagination to contemplate the added distress that would have come to the millions of depositors under these circumstances and to the country. An effort now to penalize this work must be based upon misunderstanding or a failure on the part of some of us to show a proper regard for suffering depositors.

Far from taking away from any community any taxable asset which was placed in the community by its local citizens or which it had prior to this campaign on the part of the R. F. C., the Federal Government, through this great agency, has added taxable values to every community which amounted in the aggregate to many millions of dollars. Under the plan of retirement of the preferred stock and notes, it is reasonable to conclude that not less than 700 or 800 million dollars in common stock or reserves will be available, at the end of the retirement of the R. F. C. holdings, for local taxation.

Whatever else has contributed to recovery, the recapitalization of banks was like replacing a rotten foundation with a new and sound one. A distressed country, as Mr. Jones said, could not support an unsound banking system, but a sound banking system could support a distressed country. The soundness, fairness, and merits of this measure has the approval, according to the statement of Mr. Jones, of the President of the United States. It has been unanimously recommended by the Banking and Currency Committee of the Senate and the Banking and Currency Committee of the House, composed of Democratic and Republican Members. The bill, with the exception of a minor amendment, has already passed the Senate. The Rules Committee granted unanimously, according to my information, the rule which we passed yesterday.

The measure has the wholehearted recommendation of the ablest and most effective financial genius this generation has known, the Honorable Jesse H. Jones, Chairman of the Corporation, whose work has done more to save America during this crisis than any other man in the United States with the exception of our President. It also has the wholehearted recommendation of the Honorable Leo T. Crowley, Chairman of the Federal Deposit Insurance Corporation, who has depended upon Mr. Jones and other able members of his staff in working out the serious problems involving the restoration of banks, to the end that they might come under the protection of the Federal Deposit Insurance Corporation. In my opinion, there can be no sound or legitimate reason for voting against this measure. It will place all the banks upon an equal footing and eliminate the discrimination against the national banks in the matter of taxation. It will permit the R. F. C. to go forward in its work to lend a helping hand in the scattered places throughout the country where rescue and repair work may be needed. It is not believed, however, that much additional work of this character is necessary, for everybody knows that our banking structure as a whole is now upon a sound and solid foundation.

I do not have the time, nor do I think it necessary, to discuss the merits of the Vandenberg and Brown amendments. Both of these are designed to aid the orderly liquidation of closed institutions, by a reduction in the interest rate on loans from the R. F. C. The Brown amendment is a natural sequel to the Vandenberg amendment and is designed to insure that the reduced interest rate to the receiver shall be passed along to the distressed debtors of the institution. In my opinion, this is just and proper, and I am confident that it will afford great relief to many a struggling debtor, who is trying faithfully to meet his obligations to the closed institutions as rapidly as possible so that the assets may be distributed to the depositors.

Now, let us examine the arguments that have been leveled against the bill and their sources.

Mr. Chairman, during my 6 years as a Member of Congress I do not believe that I have ever seen as much confusion surrounding the merits of a bill, or as much misunderstanding as exists today with respect to the consideration of this particular bill. I accord every man the right to his honest conviction. I know, however, that as heretofore stated that there are some Members of the House who cannot help from seeing "red" whenever a bank or a banker's name is mentioned. Many extraneous considerations have been injected into this discussion and most of them are appeals to prejudice. This is very unfortunate. I assume that those who are responsible have done so with a sincere purpose. I do not believe, however, that any argument has ever been made against the merits of a bill, since I have been here, that was more plausible yet as perfectly unsound as the argument made by my good friend, the gentleman from Texas [Mr. PATMAN]. Now, let us clear the track as we go along. What is pertinent to the issue here? There is absolutely nothing in this measure which involves infringement upon State rights, regardless of any statement to the contrary. There is nothing in this measure that involves the principle of tax-exempt securities—not one single phrase. That's another old herring.

Mr. Chairman, as I have in my prepared statement tried to set forth clearly, this bill merely would exempt the securities owned and held by the Reconstruction Corporation. If this bill is not passed the burden falls upon the taxpayers of America. It will constitute a rank discrimination against the taxpayers of America. It will be a rank discrimination against certain banks. It will be a rank discrimination against certain States. The tax-exempt securities plan involves taxing securities in the hands of individuals. Under this bill the securities held by the R. F. C. will be exempt only so long as they are held by that Corporation. When put back into the communities they become taxable, as other similar securities. If you refuse to pass this bill you might as well agree to enact legislation which will make all relief funds provided for recovery, unemployment, and to care for the destitute, in this country, taxable. These funds were for relief and rescue purposes. No one can truthfully deny that. My good friend from Texas would not dare to have stood on this floor in 1933 and opposed an extension of aid to the banks in his district by this Corporation, which was the only means of saving the deposits of thousands of his constituents.

Mr. Chairman, let us not forget the ditch from which we were dug or tear down the bridge that carried us across. Who is there in this presence who would have opposed this preferred-stock and capital-note campaign in 1933 or 1934?

This Corporation, as above stated, did not desire to enter the field of private business. It has never done so with the idea of any gain or making any profit. It went in because the local communities had broken down financially, and individuals from one end of the country to the other were afraid of bank stocks. Therefore, every dollar that has

been placed in various parts of the country to recapitalize and rehabilitate the banking structure, was put there because the local communities could not do it, and it was an addition to capital stock—as I have tried to show you—rather than a replacement. Taxing this agency would be similar to punishing the good Samaritan and rewarding the Levite and priest.

My friend talks about his bank in Texarkana. To begin with, he does not even know the basis upon which the stock in the bank to which he refers is taxed. Bank stock in 31 States is taxed according to its fair, true value regardless of whether the par is $25 or $100 per share. The assets of the bank, after deducting the liabilities, determine the fair value of the bank stock. Every man who knows anything about banking understands this.

If you refuse to pass this bill, you discriminate against national banks, because the capital notes, debentures, and preferred stock of State banks are not taxable. They cannot be for two reasons: One is because a State cannot tax the securities of the Federal Government, and the other is because of the provision in the act itself which provides that the Corporation, its franchise, surplus, reserves, and earnings are exempt from all taxation, both State and Federal.

This, Mr. Chairman, should make that point very clear. This bill is not a bankers' bonus as the gentleman from Texas contends. He calls all of them the same name. Every dollar of the burden will fall upon the R. F. C., because of a contractual relation existing between the R. F. C. and the banks. The banks will not receive a penny's benefit. Read Mr. JONES' statement for corroboration of that statement.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK of North Carolina. I shall be pleased to yield to the gentleman from Texas.

Mr. PATMAN. If that is true as to past transactions then as to future transactions, the banks will be required to pay it, will they not?

Mr. HANCOCK of North Carolina. That is absolutely correct.

Mr. PATMAN. That is what I want to do in accordance with what I thought was an understanding.

Mr. HANCOCK of North Carolina. The banks would pay it, but it would be charged, of course, to the stockholders in the banks. Of course, I know nothing about your understanding, for you had none with me. It is Greek to my ears.

Mr. PATMAN. That is all right if they are able and willing to pay it and able to pay large salaries in addition. Why not require them to pay it?

Mr. HANCOCK of North Carolina. Then I say, Mr. Chairman, if you do that——

Mr. LAMBETH. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK of North Carolina. I yield.

Mr. LAMBETH. I had not wished to interrupt the statement of my colleague, but since the gentleman has yielded I should like to ask two questions.

First, how much is it estimated it will cost the R. F. C. if this bill does not pass and they have to pay this tax?

Mr. HANCOCK of North Carolina. That is very hard to estimate, because it would depend on how many States having the right to tax capital stock would go back and tax them for all the years from the date of the issuance of the stock. It has been estimated it would cost between five and seven million dollars.

Mr. LAMBETH. What was the profit of the R. F. C. for the last fiscal year?

Mr. HANCOCK of North Carolina. The profit on all of its operations?

Mr. LAMBETH. Yes; its net profit.

Mr. HANCOCK of North Carolina. I do not know. I understand that up to 60 days ago the profit was estimated at $115,000,000, but that, of course, is problematical, since many of its loans have not been liquidated. The hope is that eventually it may go out of business without loss or profit.

Mr. LAMBETH. The other question I wish to ask for information is this: Is there any difference between this bill and the bill the House previously voted on?

Mr. HANCOCK of North Carolina. Yes; there is one difference. There is an amendment which provides that the R. F. C. shall make loans to closed institutions in receivership at a rate not exceeding three and a half percent, and then this amendment is further amended in the bill by requiring that where a receiver borrows from the R. F. C. at three and a half percent, or not in excess of three and a half percent, the receiver cannot charge the debtors of the closed institution in excess of four and a half percent from the date it receives the loan at three and a half percent.

Mr. LAMBETH. But that does not affect the proposition as to taxation of the stock. That remains the same as in the previous bill.

Mr. HANCOCK of North Carolina. That is not changed. It is identical.

Now, to get back to the inquiry of my friend from Texas, suppose in the future you would permit the local communities to tax this stock, the burden, of course, would fall on the weak, distressed institution that was trying to regain its health in order to protect its depositors. My feeling is that a vote against this bill is, in effect, a vote against the depositors of a closed institution or a weak institution seeking reconstruction, regardless of where it may be located.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. HANCOCK of North Carolina. I yield to the gentleman from New York.

Mr. REED of New York. It would also be a discrimination, and a very severe one, against the States that do not tax these securities.

Mr. HANCOCK of North Carolina. I made that point at the beginning of my remarks.

Mr. REED of New York. I thank the gentleman.

Mr. HANCOCK of North Carolina. Now, let us see what has been the course of my good friend, for whom I have the highest respect and whom I like, with regard to this bill. The gentleman has "wobbled in and wobbled out and left this House all in doubt." He started out by undertaking to oppose the bill on the ground that it deprived local communities of taxable values. This argument fell flat, as everybody, I am sure, will agree.

As a matter of fact, the Chairman of the Reconstruction Finance Corporation stated before our committee in his presence that, aside from the indirect benefit flowing to communities in improved and increased valuation of all kinds of property, under the retirement plan the properly managed banks would ultimately have between eight and nine hundred million dollars in excess taxable value that they would not have had except for this great reconstruction campaign that the R. F. C. has carried on in helping repair and rebuild about 6,000 banks.

Now, when that one fails, he moves to another course in his strategy, he now in desperation wants to protect the local communities in the future. He is willing to condone past operations. Magnanimous to the point of complete inconsistency!

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. HOLLISTER. I yield the gentleman 3 minutes more.

Mr. HANCOCK of North Carolina. Now, he comes back and says that if the national banks can issue capital notes he thinks we can get together. Get together on what?

Mr. PATMAN rose.

Mr. HANCOCK of North Carolina. I do not yield. Oh, I know it pinches. [Laughter.] The preferred stock is the only security in question that can be taxed under the recent decision of the Supreme Court. Then, pray tell me how an amendment authorizing national banks to issue capital notes which are already nontaxable would add to the taxable values of his district. Such a contention is absurd.

Falling down with that, my friend, resourceful as he is, comes back and says, "Let us strike out the word 'hereafter'." Strike it out for what? In order that the local communities can tax the stock. Take the situation in his own town. Unfortunately, the clean-up campaign is not altogether over. We know, however, that great recovery has been brought about and a sound sill has been put in place

of the rotten one which was under the banks in this country. But he wants certain banks to be taxed and other banks not to be taxed. Would that be discriminatory? He is consistent only in his inconsistency.

Now, remember this: He has been talking about precedents. He has been talking about discrimination. He is the man who first mentioned those words. Now he has to swallow them. Where is he at this hour? He is all alone. He has not a foot to stand on. We all know that if we accepted his view, it would be both rank discrimination and an upset of all precedents. With all his good sense it is not working here.

Again, I ask, in conclusion, who is supporting this bill, and how did it get here? Let us repeat. It is backed by the unanimous vote of the Banking and Currency Committee of the House. It was passed by the Senate, and a rule on it was reported out favorably and unanimously by the Committee on Rules. It is recommended by the Honorable Jesse Jones and the Honorable Leo T. Crowley, and it is brought here with the approval of the President of the United States. Will you accept their judgment or follow Mr. PATMAN'S? [Applause.]

The CHAIRMAN. THe Chair announces that the gentleman from Ohio [Mr. HOLLISTER] has 58 minutes remaining and the gentleman from Wisconsin [Mr. REILLY] 35 minutes remaining.

Mr. PATMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PATMAN. How much time has been used by the proponents of this legislation and how much time by the opponents of it?

The CHAIRMAN. The Chair is without information on that point. The gentleman is as good a judge of that as the Chair. The control of the time under the rule is with the gentleman from Maryland and the gentleman from Ohio.

Mr. WOLCOTT. Mr. Chairman, I yield 8 minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman, this bill arises from a decision of the Supreme Court, which caused considerable annoyance. The case was Baltimore Banking Commission against the State Taxing Commission of Maryland. Maryland sought to tax the preferred stock of the Maryland banks held by the R. F. C. If you read the decision, particularly the majority opinion of Mr. Justice Cardoza, you will find that the Court strained every effort to make this bill, as it were, unnecessary, strained every effort to prevent tax on the Maryland bank preferred stock. We passed the R. F. C. Act originally and exempted from taxation the franchise of the R. F. C., its capital, its reserves, and its surplus. Beyond peradventure of doubt, if the R. F. C. at the time of the original enactment had had the right to invest in preferred stock of banks and thus to save them from ruin and thus rescue them, we would have included in those original provisions of exemption the preferred stock. I cannot conceive of any man in this Chamber, the gentleman from Texas [Mr. PATMAN] included, who would have the temerity to deny that. If that were the intention originally of Congress, I cannot see why there would be anyone here to place this obstacle in the path of the R. F. C. at this late hour. What is going to happen if we do not pass this bill? There are 17 States that do not in their judgment tax the R. F. C. stock which is owned as preferred stock in the banks. These are the States—and the gentlemen from those States should harken, because there will be involved the rankest kind of discrimination against the population and citizenry of those States: Louisiana, Maine, Mississippi, New Hampshire, New Jersey, Utah, Vermont, Washington, Wisconsin, Wyoming, Alabama, California, Connecticut, Massachusetts, New York, Oklahoma, and Oregon. Mr. Jones said:

> Taxing R. F. C.-owned preferred stock by the other 31 States and their political subdivisions will be discriminating against those 17 States.

I say, if those 17 States do not tax, then the other 31 States should not have the right to tax; and that is what we do practically by this bill. We take away that right, which they never should have had in the first instance. There is no question that that argument is sound. We in New York recognize it because this is what we did: We had our legislature in New York pass a provision preventing State tax upon such preferred stock, because we recognized the wholesome good done by the R. F. C.; and I say to the gentleman from Texas that we in New York do not bite the hand that feeds us. You do, I say to the gentleman from Texas, that by insisting on your amendment or by opposition to this bill. Were it not for the R. F. C., we in New York would be in the doldrums, and Lord knows where they would be in Texas. Very likely they would be in limbo, and, I repeat, we will not bite the hand that feeds us in New York. We said this through our New York Legislature enactment, as follows:

> All interest paid or accrued during the year of indebtedness and all dividends paid during the year on preferred stock held by the Reconstruction Finance Corporation shall be deducted in determining net income.

In other words, we in New York recognize that that money which was received from the R. F. C. in return for which the banks issued preferred stock was really a loan, and that the interest paid on that loan or on the preferred stock is a part of the cost of the operation of the bank. If you refuse to pass this bill, what will happen? The R. F. C. is not going to lose money. If it must pay this tax, or if you allow the States or municipalities to exact the tax, which must be paid by the R. F. C. and not by the banks, then the R. F. C. will simply pass that tax on to future borrowing banks. They will not make any more loans in the form of preferred stock. They will make an actual loan, and, instead of charging 3½ percent, which is the rate on preferred stock, the banks in these 17 other States, that may apply for loans in the future, will have to pay for the loans probably 5 or 6 percent. That would be a rather prohibitive cost, and I ask the gentlemen from those States to consider this very seriously. In other words, if the R. F. C. must pay a tax, it will pass it on. It cannot pass it on to the banks in the 31 States. The dividend rate is fixed. It cannot be changed—even by statute. But to make up that loss, due to payment of tax in the 31 States, it would naturally increase its rates for loans in the future to banks, most of which banks would be in the nontaxing States.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. BROWN of Michigan. The gentleman does not mean to say that the R. F. C. could pass this tax on in the 31 States where the preferred stock and capital notes are issued?

Mr. CELLER. No; they could not, but the other States principally will have to bear the brunt of it all.

Mr. BROWN of Michigan. The gentleman knows there is a definite 5-year contract during which the interest could not be raised beyond 3½ percent.

Mr. CELLER. In those 31 States they would still have to pay only 3½ percent. I think it is 20 years. They are supposed to retire at the rate of 5 percent per year.

Mr. BROWN of Michigan. The 3½-percent dividend rate is a 5-year rate, fixed by Congress.

Mr. CELLER. Oh, that is correct; but do you not see what a terrible burden you are placing upon my State and the State of Massachusetts and these other 15 States?

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. MORAN. I am asking purely for information, as to how one of the 17 States, of which mine is one, would be affected, since we do not have that particular system of taxation.

Mr. CELLER. This is what would happen: The Reconstruction Finance Corporation would take no more preferred stock. It would make loans, but it would have to make a uniform rate all over the country. It would not make one rate for one State and a different rate for another State, so if a bank in your State is in distress and wants to get some money from the Reconstruction Finance Corporation, the R. F. C. will not buy preferred stock but will make a loan.

Therefore your State will have to pay a larger rate on the loan, larger than the 3½ percent rate on the preferred stock. Aside from the discrimination, it is a very serious situation, because it is far more to the advantage of a bank to issue its preferred stock than it is to make a loan, because a preferred-stock arrangement does not interfere unduly with its capital structure. Preferred stock is in the nature of a capital investment. A loan appears on the liability side of the bank. It weakens the bank in that community to that extent, and therefore we must be very careful what we do in that regard.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. REILLY. Mr. Chairman, I yield the gentleman 4 additional minutes.

The CHAIRMAN. The gentleman is recognized for 4 additional minutes.

Mr. MORAN. Mr. Chairman, will the gentleman yield for one further question?

Mr. CELLER. I yield.

Mr. MORAN. Would the gentleman anticipate that, if this bill fails to pass, in one of the 17 States the only difference between the present status and the status afterward would be that banks in that particular State would have to pay taxes, if any?

Mr. CELLER. There is no question about it, the States that now do not tax will have the right to do so.

Mr. MORAN. That being the case, if we do not pay any taxes in the State under that system, it is not clear to me why we will be penalized.

Mr. CELLER. Because the Reconstruction Finance Corporation will have to make a uniform rate on the loans. The Reconstruction Finance Corporation, in order to make up the taxes which it has to pay in the 31 other States, will have to make it up in the interest rate on future loans.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. CELLER. The gentleman did not yield to me yesterday, but I will be more generous and yield to him.

Mr. PATMAN. The gentleman will remember that I did not have control of any time. I am just an opponent here on this bill, and I do not have any time.

Mr. CELLER. I forgive the gentleman.

Mr. PATMAN. The gentleman is making an incorrect statement, in good faith, I am sure, but the Reconstruction Finance Corporation has already made one loan since this Supreme Court decision, and in that loan they required the bank to pay 3½-percent interest, but required them to continue to pay local taxes as before if this exemptions bill does not pass. If this bill goes through as I want it, the rate will remain uniform at 3½ percent in those 17 States, but in the other States they will pay 3½ percent and pay taxes, because they have a different system of taxation in those 31 States.

Mr. CELLER. The gentleman is entirely incorrect in that regard, because common sense will tell us differently. The R. F. C. may have made such a loan, but it had a right to rely upon the good faith of the Congress. It had a right to believe Congress would remedy the situation.

For instance, the Treasury, when it loans money to the Reconstruction Finance Corporation, must charge a certain amount of interest. It charges upward of 2¾ percent. If they make their loans at 3½ percent, there is only a difference of three-quarters of 1 percent. When you figure the cost of operation, salaries, and so forth, you will find very readily that the Reconstruction Finance Corporation cannot get along with that differential. It is inconceivable that the R. F. C. would not then lose money. For example, they must pay these additional taxes. Where is the money coming from? The Reconstruction Finance Corporation would operate at an absolute deficit. Furthermore, the Reconstruction Finance Corporation is going to have some losses. Mr. Jones admitted that his loss in the Central Bank & Republic Co., of Chicago, might amount ultimately to $10,000,000. Who is going to make up these losses? Certainly those 31 States ought to listen to this situation and at least agree that justice should be done. That is why we should pass this bill.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. McFARLANE. The gentleman is making an interesting statement as to why he thinks these 17 States would be unfairly discriminated against in case this bill fails to pass as it should. I am wondering on what he bases that, other than his statement that the Reconstruction Finance Corporation is going to discriminate against those different States that have an entirely different system of taxation?

Mr. CELLER. I have the word of the Reconstruction Finance Corporation officials for that in the form of letters, and my own common sense.

Mr. McFARLANE. Can the gentleman cite one instance where that is true?

Mr. CELLER. The rate has not been increased yet. The Reconstruction Finance Corporation is holding that in abeyance. They will increase the rates if you do not pass this bill.

Mr. McFARLANE. What makes the gentleman think so?

Mr. CELLER. It must naturally be so to avoid a loss. That is all.

The CHAIRMAN. The time of the gentleman from New York [Mr. CELLER] has expired.

Mr. REILLY. Mr. Chairman, I yield 7 minutes to the gentleman from Michigan [Mr. BROWN].

Mr. HOLLISTER. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. BROWN].

Mr. BROWN of Michigan. Mr. Chairman, we have had a good deal of discussion about the provisions of this bill, but we have not had yet what might be called a historical statement of the reasons why this question comes before us today. We must go back to 1931, 1932, and 1933 when the banking structure of the United States began to break down. What happened? The securities held by banks in the form of bonds, in the form of notes of their customers, depreciated in value to the point where in a great many instances the capital stock, the margin of safety that this Government had set up by its laws for depositors, had been wiped out because of the decline in the value of the securities and the inability of the noteholders to pay their obligations to the banks.

What did the Comptroller of the Currency try to do under those circumstances? He first went to the stockholders of the banks—and when I speak of the Comptroller of the Currency I also speak in the same way of the banking commissioners in the various States—they went to the stockholders and said: "You must put up more money to repair the capital of your bank. Until you do so we cannot let you continue doing a banking business." As you know, the stockholders of the banks were pretty heavy losers, and in the great majority of cases it was impossible for those men to put up the money to rehabilitate the capital of the banks. What did we then do? We turned to the Government of the United States and we provided in the Emergency Banking Act of 1933 that the Reconstruction Finance Corporation might buy preferred stock in national and State banks.

Let me digress here to say that all this talk about capital notes and capital debentures rose solely because of the fact that in several of the States—not very many—under the State law preferred stock could not be issued by State banks. This is the reason we have this complication of capital notes and debentures.

This preferred stock was supplied by the Government of the United States to rehabilitate the capital of these banks. Stop and consider a moment what would have happened had that preferred stock not been supplied, and let us assume that the common-stock holders could have supplied a minimum amount of capital and that we could have worried along without preferred stock. If this had been a fact, because of the general condition of the country, the capitalization of these banks would have had to be much less than it is today. It would have been impossible under the financial conditions as they were and as they continued down to very recent months for those banks to supply adequate capital. What is the rule in regard to this? The Comptroller of the Currency, as a general proposition, rules that the capital of a bank

ought to be at least one-tenth of the total amount of the deposits, this being the margin of safety, and the Department favors a more stringent rule. If this Government capital had not been supplied, our banks would be much weaker. If they could have supplied a meager but legally sufficient capital, it would be far less capital than they have at the present time. What would have been the result upon the taxing authorities throughout the country? It would have been just what one of the most able citizens who has appeared before our committee testified, and I am speaking now of the testimony of the man who discovered the situation which enabled the State of Maryland to tax Reconstruction Finance Corporation preferred stock in national banks, Mr. Leser, the chairman of the Maryland State Tax Commission. I am going to quote his language. He said that if the Reconstruction Finance Corporation had not gone into the State of Maryland, had not supplied capital to the Baltimore National Bank and the other banks in Maryland, that the common-stock holders would not be paying as much taxes today as they are and Maryland would be getting much less tax return.

He brought out very clearly that the program of the Reconstruction Finance Corporation supplying money to these banks at the rate of 3½ percent enabled the common stock to reach a taxation value far above what it would have been had the R. F. C. not gone into the Baltimore situation.

Quoting from the hearings before us 2 or 3 days ago, I read the following:

Mr. BROWN of Michigan. Excepting the 3½ percent that goes to the Reconstruction Finance Corporation; outside of that, the profit the bank makes goes to the common-stock holders. Now, the net result of this is that the common stock goes up in value by reason of the investment that the Reconstruction Finance Corporation has in the preferred stock, doesn't it?

Mr. LESER. Yes; it does.

What is the logical result of that? The tax is based not upon the par value of the common stock, as the gentleman from Texas many times asserted, but it is based on the value of the stock. By giving the bank a low rate of interest—that is what it amounts to, 3½ percent upon the preferred stock—the common stock earns a greater dividend, and if it earns a greater dividend it has a greater value. If the State tax commission is on its job, as it was in Maryland, and as the tax commissions are in most of the States, then the increase is reflected in an increased tax valuation upon that common stock.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield.

Mr. MURDOCK. In the gentleman's study of this question has he found an instance where the capital stock of a bank has ever been taxed by a State taxing authority at less than its par value?

Mr. BROWN of Michigan. Does the gentleman mean at more than its par value?

Mr. MURDOCK. No; at less than its par value.

Mr. BROWN of Michigan. Oh, yes; a great many instances.

Mr. MURDOCK. If the gentleman can cite me one case I would like to have it.

Mr. BROWN of Michigan. I cannot cite the gentleman to any particular bank, but I know there are many instances.

I may say that the State tax commission is bound by the law of its State; and if the bank stock was worth less than par, as literally millions of shares of stock were during the depression, then they would be assessed at less than par, and they were.

Mr. MURDOCK. But is it not a fact that no bank in operation would dare tell the taxing authorities that their capital stock was worth less than par and ask to be taxed on that lowered value?

Mr. BROWN of Michigan. Oh, yes. Practically all bank stock in the State of Michigan has deducted from it the real-estate value, which brings the stock in a great many instances below par.

Mr. LUCAS. Will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Illinois, an expert on tax matters, having been a member and chairman of the State Tax Commission of Illinois for some years.

Mr. LUCAS. I do not claim that honor; but I may say in answer to the question asked by the gentleman from Utah [Mr. MURDOCK] that as chairman of the Tax Commission of Illinois for a period of 2 years I believe I understand what the law is there. We assessed the bank stock at the fair cash value of that stock, not the par value.

Mr. DONDERO. Will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Michigan.

Mr. DONDERO. Is it not a fact that the preferred stock taken by the R. F. C. in these banks is in the nature of a loan?

Mr. BROWN of Michigan. That is true.

Mr. DONDERO. That stock is not a permanent investment but has to be returned or repaid at the rate of 5 percent a year?

Mr. BROWN of Michigan. That is true.

Mr. Chairman, I want to quote what the chairman of the Maryland Tax Commission says about the proposition that Maryland is getting just as much, if not more, because of the rise in the value of the common stock occasioned by the low dividend or interest rate charged upon preferred stock:

Mr. BROWN of Michigan. You are now getting more taxes out of common-stock holders than you would have gotten had the Reconstruction Finance Corporation not made its investments in these various financial institutions in Maryland; is that not true?

Mr. LESER. I think very likely it is so.

Mr. Chairman, that is the statement of the man who brought about this situation. That is the statement of the man who brought this suit in behalf of the State of Maryland. He says that Maryland is actually better off, getting more taxes, today by reason of this investment than if there had been no change in the law.

In connection with the proposition that the gentleman from Michigan [Mr. DONDERO] brings up, do not forget that if we permit this kind of taxation to be had, it will be the first time in the history of any tax authority of any State or of the Nation itself that a tax is based upon a liability and not upon an asset.

[Here the gavel fell.]

Mr. HOLLISTER. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. BROWN of Michigan. Mr. Chairman, it cannot be denied that this preferred stock is in the nature of a liability. Before the common-stock holders can get anything this preferred stock must be paid in full. Before they can get anything by way of dividends a 3½-percent dividend rate must be paid. It is a liability of the common-stock holders and not an asset. Where is the logic in taxing the liability of a bank?

Mr. Chairman, in conclusion may I say that no one need think for one moment that anyone other than the Reconstruction Finance Corporation is going to pay this tax. There is a definite 5-year contract entered into between the Corporation and the banks to the effect that the rate shall be 3½ percent and bank stock in no State in the Union is assessed to any person other than the owner of the stock. The Government of the United States will pay this tax, if this bill is not passed. [Applause.]

Mr. FORD of California. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. SISSON].

Mr. HOLLISTER. Mr. Chairman, I yield the gentleman from New York [Mr. SISSON] 5 minutes.

Mr. SISSON. Mr. Chairman, it seems quite evident that the failure on a former occasion by this House to pass the legislation to accomplish substantially the same purpose as this bill is intended to accomplish was due, in some part, to the fact that many of the Members did not at that time understand all of the facts involved in the legislation and in the situation. I think that will be evident from the debate on this same bill in the other body of the Congress on February 24 and the debate on the other bill in the House on February 25. As appears therefrom, it was not clearly understood, either in the other body or in the House. The

other body, however, did pass the legislation that was before it at that time or, in other words, this bill S. 3978. The facts and the law, as well as the equities of the situation, seemed so clear at that time to the House Banking and Currency Committee, which had unanimously reported the other bill, that probably our committee made the mistake of not clearly getting all of the facts and the equities before this House at that time.

In the brief time allotted to me on this bill I do not expect to be able to cover the whole subject. There are several members of our committee, however, both on the Democratic and Republican side, who can and will do this in a more capable manner than I; and I am sure, if the Members take pains to listen to all of the remarks from the several members of the Banking and Currency Committee, or if they will take the pains to read the debate in the other body on this same bill on February 24 and the debate in the House on the other bill on February 25, they can arrive at only one conclusion, and that is that this bill should be passed.

For the benefit of those who may not have the opportunity or time to read the former debates, I shall attempt to cover very briefly the more important facts and provisions of law that are involved in this legislation.

The Reconstruction Finance Corporation was created by Congress in January 1932 as an agency through which the Federal Government might act in the emergency then existing to save from ruin the banking structure of the country and certain great industries and financial institutions, such as not only the banks but the insurance companies and railroads. It was not intended, as has been claimed, to be solely or principally in the interest of the big bankers or of our wealthy classes. I am not now, and I never have been, connected with any bank, railroad, or insurance company either as an officer or as an attorney, except as most trial lawyers do, from time to time, receive employment from so-called casualty and surety companies to defend negligence and surety cases. I have never had a retainer or been on the pay roll in any way of any of those institutions except as I might have been employed and paid on a per-diem basis to try a few cases. I have no criticism of lawyers who—perhaps more fortunate than I—have had such connections, and it is the purest kind of demagoguery to attack them by reason of such connections alone and call them "bankers' advocates." On the other hand, I have joined with several of the men who have long served on the House Banking and Currency Committee, such as the chairman of the Banking and Currency Committee and the gentleman from Maryland [Mr. GOLDSBOROUGH] and others, in advocating and fighting for the measures to which most of the big bankers were opposed, such as Federal insurance of bank deposits and control by the Government rather than by the private bankers of our money and credit.

This bill is not a bankers' bonus bill nor a bill in the interest of bankers, as the gentleman from Texas [Mr. PATMAN] incorrectly claimed in the former debate in this House, and by which he possibly thereby misled some of the Members of the House. It is not reasonable or fair or for the general welfare to claim that because the Reconstruction Finance Corporation has taken measures necessary to save some of these institutions that that was not a necessary thing to do for all the people. The alternative was for the Government either to let many of these institutions go down in ruin or else for the Federal Government to take them over. We could not afford to allow this blow to fall upon the holders of insurance policies, the people whose small savings were invested in insurance companies, the small depositors of the banks, nor were we prepared to adopt the other alternative of Government ownership. I am speaking of this because I most sincerely believe that it is not right to arouse emotions and prejudice, and I also believe and know that if the Members of this House decide this question by their judgment and common sense, and not by emotions or prejudices, the bill will pass.

It is true that at the time that the Reconstruction Finance Corporation was created by Congress in 1932, Congress did not contemplate all of the kinds of relief and aid to business and commerce and industry that we have since, by additions to the Reconstruction Finance Corporation law in 1933 and 1934 and 1935, authorized to be done.

By the Emergency Banking Act of March 9, 1933, Congress authorized the Reconstruction Finance Corporation to furnish aid to the banks of the country that needed such aid, both national banks and State banks, by subscribing to the preferred stock of the national banks and then by subscribing to the preferred stock of State banks and trust companies in those States wherein such State banks and trust companies were authorized to issue preferred stock and wherein the legislatures should remove the double liability provision from stockholders. With respect to the State banks and trust companies which either were not authorized to issue preferred stock or in States wherein the legislatures did not remove the stockholders' double liability provision, the Reconstruction Finance Corporation was authorized to furnish aid to such banks by taking their capital notes or debentures.

It is not in accordance with the facts to say—as was said in the other debate—that the Reconstruction Finance Corporation could compel either a national bank or a State bank to receive such aid against its will. With respect to the national banks and the member banks, that control was in the Treasury Department—in the Comptroller of the Currency, and it was only in the cases where the Treasury found that the banks needed such additional capital, either to repair their impaired stock or to continue to fulfill their functions in their respective communities or generally to build up their capital structure, that the Reconstruction Finance Corporation could take the preferred stock of the national banks, member banks. With respect to the State banks and trust companies which were nonmembers, the Reconstruction Finance Corporation could not come in and aid those banks unless and until the banking authority of the given State had found, for one of the reasons which I have mentioned, that such aid was needed. It is true, of course, that prior to the bank holiday and of the passage of the Emergency Banking Act of 1933, loans were made by the Reconstruction Finance Corporation to various banks in the country, and while some mistakes may have been made—I do not claim to be competent to pass upon that—the purpose was to save them from failure, to preserve industry, to prevent further loss and unemployment, which would have resulted had they been allowed to go down. That is now water over the dam.

There are few calamities that can happen to either a city, a village, or any community which affect more widely all of the people in that community, whether bank depositors, business men, farmers, or people who work in mills and factories, than the failure of the bank or banks in those particular communities. It was the purpose of the Government to save those which could be salvaged, which were at heart still sound, and so far as possible by aiding in the reorganization, in securing new capital—private capital, if possible—from the people of the community, or if not, by furnishing aid through this splendid arm of the Government, the Reconstruction Finance Corporation, to repair as rapidly as possible the terrible damage that had been done to the banking structure of the country and to build up fortifications and safeguards against a repetition of such loss. It was to that end that we passed the Federal deposit insurance law, and as most of the Members of the House remember, we had opposed to us pretty generally the big bankers, and we had to put those measures through against the most formidable opposition which they could create against us.

It is very unfair and not in accordance with the history of the past 3 years to say now that our efforts were for, or mainly for the relief or aid of the big bankers and the big financial institutions. They were for their aid in the instances wherein—if that aid had not been extended—the crushing loss would have fallen most heavily upon those least able to bear it.

To this end the Reconstruction Finance Corporation furnished capital to the banks, both national and State, and in order to make it as easy as possible to rebuild such weak

banks and to get the banks back in a position where they could and would commence fulfilling their normal functions as well as to make the burden upon the Federal Treasury a burden which, in the end, falls upon the taxpayers of the country, directly or indirectly, as light as possible, the Reconstruction Finance Corporation has, from time to time, lowered the rate of interest upon its loans so furnished to the banks. Starting out at, I believe, 6 percent, it has finally been lowered to 3½ percent for both national and State banks. The preferred stock of the banks, national and State, now held by the Reconstruction Finance Corporation, pays that rate of interest. So do the capital notes and debentures of the State banks held by the Reconstruction Finance Corporation bear the same rate.

Of course, all of the money which the Reconstruction Finance Corporation has used and will use for loans to National and State banks, now amounting at the present time to about $870,000,000, came from the Federal Treasury, from the taxpayers of this country, directly or indirectly. The Reconstruction Finance Corporation pays the Treasury for that money 2¾ percent. According to the experience of the Reconstruction Finance Corporation, the overhead expense of carrying on this function of loaning to the banks is about one-half of 1 percent. This leaves the very small margin of one-fourth of 1 percent for losses. The debentures and capital notes of the State banks which the R. F. C. holds for loans made to them being obligations, debts of those banks, are not taxable by either the State or local governments. They are liabilities, not assets. Neither are they taxable, of course, by the Federal Government. Neither is the capital stock of State banks and trust companies taxable by the Federal Government, nor have we any power, of course, to tax those assets. It was unquestionably the intention of Congress in the act of January 22, 1932, creating the R. F. C., to exempt from State and local taxation all of the property of the R. F. C. except real property, for the reason that the R. F. C. is a nonprofit corporation and simply an arm of the Government. To tax its property, including the preferred stock of the banks which it holds for the loans made to those banks, which preferred stock is a liability of the banks and not an asset, is exactly the same thing as taxing property belonging to the people of the United States and coming from the taxpayers, directly or indirectly. The Supreme Court held, of course, in the recent decision that the language in the act of January 22, 1932, was not sufficiently broad so as expressly to exempt such preferred stock from taxation. The taking of preferred stock by the R. F. C. was not, at that time, contemplated and had not been authorized. It is to cure that inadvertent omission or gap that this bill is necessary.

Nor is this removing from State or local taxation any property or revenue which either the States or subdivisions thereof have formerly been able to tax. In only one instance, so far as I know, has a levy been made; but no tax has been paid or collected on such preferred stock by any State or subdivision thereof. Such preferred stock simply represents money put into the bank by the Government. The stock is an obligation of the bank and not an asset. On the other hand, this aid to the banks by the Reconstruction Finance Corporation has, in the great majority of instances, greatly increased, sometimes several fold, the value of the common stock of the banks, and thereby, to that extent, increased the amount of property available for State and local taxation. In practically all of the States, property, including stock—which has its situs for taxation, of course, at the place of the bank—is assessed and pays taxes upon its actual value rather than at its par value. In other words, if the stock is worth 300 percent of its par value it is assessed and taxed on that basis. And if there is any State which does not so assess and tax it, it is the fault of the taxing authorities of that State—not of the Federal Government.

My friend from Texas [Mr. PATMAN] has several times claimed that in Texas such stock is assessed only at its par value, but our very able colleague upon the Banking and Currency Committee, Mr. CROSS, of the same State, disputes this and says there is no reason why it should not be assessed and taxed at its actual value in Texas as in other States.

Now further, as to what would be the effect: If this bill is not passed and if the States and municipalities are allowed to tax the preferred stock held by the Reconstruction Finance Corporation as an agency of the Government for the loans that it has made to the national banks, preferred stock of State banks held by the Reconstruction Finance Corporation is not so taxable; capital notes and debentures of State banks are not so taxable; the Reconstruction Finance Corporation is obliged, as I have already pointed out, to take the preferred stock for its loans from the State banks in the States where such banks are allowed to issue such preferred stock and wherein the double liability provision upon stockholders has been removed. The Reconstruction Finance Corporation is allowed to take capital notes and debentures from those State banks only where those two conditions do not obtain.

The gentleman from Texas [Mr. PATMAN] claims that this bill is for the aid of the bankers. I deny it.

He claims that the tax which this gap in the law would now allow if this bill is not passed would not have to be paid ultimately by the R. F. C. or by the Treasury, or by the taxpayers of this country, directly or indirectly, but that it could be passed on to the banks. I deny it. And I want you to pay particular attention and follow the gentleman in his very skillful argument and see if he has told you wherein and how the tax can be passed on.

The only witness who appeared before our committee in support of the position of the gentleman from Texas [Mr. PATMAN] and the only witness who appeared in opposition to the bill we have before us today, except Mr. PATMAN, was the gentleman who was mentioned, I believe, by the gentleman from Michigan [Mr. BROWN], Judge Leser, of Maryland, a great taxing authority, and he was attempting to sustain and bolster up the position of Mr. PATMAN, because Maryland had received what would be, if this bill were not passed, an unconscionable advantage over all the other States. I asked him this question:

> Mr. SISSON. Judge, may I ask you one question, and I think I can say that the committee here is interested in this: Can you show us how, if a tax laid by a State brings the expense of the Reconstruction Finance Corporation up to more than the 3½ percent which it charges the banks, that extra money—that is, I am including the 2¾ percent that they have to pay the Treasury and the overhead expense for that part of the function and their small margin, which is estimated to be about one-fourth of 1 percent for losses—if the tax laid by a State upon these shares brings that up to more than 3½ percent, I want to ask you if that extra amount does not fall—has to be taken out of the Treasury of the United States and, therefore, does not fall upon the taxpayers of the United States, directly and indirectly? That is the question I am interested in.
>
> Mr. LESER. Yes; that is a fact. It is a question of who should it fall upon, the Federal Government or the State government?

This gentleman was produced by Mr. PATMAN to support his position and he was the only witness who appeared before the committee in opposition to the bill, except Mr. PATMAN himself. Judge Leser, of course, was also interested as representing the State of Maryland which, if Mr. PATMAN succeeded in preventing the passage of this bill, would have been given an unfair advantage over all the other States in the Union.

This preferred stock of the national banks held by the R. F. C. is not privately held. It is not in the hands of private stockholders. It belongs to the Government of the United States. The R. F. C. cannot, for 5 years, under its contract and according to the resolution of its board of directors, increase the rate of interest or dividend upon such preferred stock. It already has only a margin of about one-fourth of 1 percent for losses. Rates of State and local taxation combined vary in the United States anywhere from a fraction of 1 percent up to as high as 10 percent. It has been computed fairly that the average is about 2½ percent, which would at the present time be laid upon this preferred stock held by the R. F. C. If this bill does not pass, however, there is nothing to prevent the States and municipalities from increasing their rates of taxation, and there will be a race and wild scramble in many instances wherein the more aggressive and selfish States and municipalities—the

ones who are continually coming to Uncle Sam for aid—will try to get in ahead of the others and try to get at this new source of revenue. Assume that the average tax is 2½ percent. The R. F. C. already pays 2¾ percent, has an expense of one-half of 1 percent and a margin for losses of one-fourth of 1 percent. This will bring it upon the average up to 6 percent, 2½ percent of which the R. F. C. will have to draw out of the Federal Treasury.

The unfairness, the inequity, the discrimination, are all apparent, it seems to me, upon the face of it. Take my own State of New York, which is one of the States—and there are, I believe, 16 others—which do not tax bank stock. Our legislature recognized that the preferred stock of the national banks taken by the R. F. C. for loans made was an obligation of the banks and not an asset or subject even to computation in taxing the income of the banks, as we do in New York. Let me quote you from the New York statute passed March 16, 1935:

All interest paid or accrued during the year on indebtedness, and all dividends paid during the year on preferred stock held by the Reconstruction Finance Corporation, shall be deducted in determining the net income.

But I am not so much concerned about this because it is unfair to the State of New York or because it is a discrimination against that State. That is only one of the many unwise and unfair and inequitable things involved in this situation if we do not pass this bill. There are, in various parts of the country, many States other than the State of New York, as we are informed by the Chairman of the Federal Deposit Insurance Corporation, Mr. Crowley, where there are banks that are still in danger—banks whose capital structure must be improved if they are to retain the benefits, the security, the safeguards of Federal deposit insurance. New loans made to such banks—if this bill does not pass—will necessarily have to bear a much higher rate of interest than is now borne by the others, who were in equally or greater need of assistance and between whom and the R. F. C. there is now a contract that the money shall cost them only 3½ percent. To that extent the situation will be much more precarious in many communities, in many States in this country, by reason of the greater difficulty in building up perhaps the only bank in that community, upon which the business life, the industry of that community, is dependent.

Many of the things which I have mentioned here are so elementary that it seems almost an insult to the intelligence of the House to speak of them. However, there has been so much misunderstanding and so many false issues injected into this discussion on the former occasion when we debated similar legislation, such as the powers of the States, State rights, and bankers' profits, that I have done it at the risk of seeming to lecture.

There is one other thing about which there seems to me to be some misunderstanding. Much has been said, both in this House and in the other body, about the R. F. C. making a profit in these matters and whether an advantage should be given to the R. F. C. over private stockholders who put their money in in communities to salvage banks in reorganization of such banks. The R. F. C. is, of course, an emergency and not a permanent institution. At least we hope so. And when and if the need for the R. F. C. has been met and banks and private industry can take up, as we hope they will, what then will become of the assets, property, surplus, and profits of the R. F. C.? Why, of course, the R. F. C. has to liquidate; and its property, surplus, assets, and profits will go back to the Treasury and thereby to the taxpayers of this country, direct and indirect, where they came from. That is all there is to it.

It is my position and the position of the members of the Banking and Currency Committee, as I understand, unanimously, Democrats and Republicans alike, that we urge upon this House that this is a matter which we must look at from a national point of view, and by reason of that we should pass this bill to remove the inequity and discrimination resulting from the present inadvertent omission in the law. It is to that national point of view—the point of view which every Member of Congress on both sides of this House presumably holds—above every other consideration—the general welfare of the country—that I address myself.

Mr. McFARLANE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McFARLANE. The members of the Banking and Currency Committee in favor of this bill have consumed 153 minutes, and the opposition only 26 minutes. Under the rules of the House, cannot the opposition have an equal division of time?

The CHAIRMAN. That is not a parliamentary inquiry. Under the rule adopted the time for debate was equally divided between the gentleman from Maryland and the gentleman from Ohio.

Mr. SHANNON rose.

The CHAIRMAN. For what purpose does the gentleman from Missouri rise?

Mr. SHANNON. I rise to appeal to the bankers and near bankers to give the opposition an equal division of time.

The CHAIRMAN. Under the rule the time is being controlled by the gentleman from Maryland [Mr. REILLY] and the gentleman from Ohio [Mr. HOLLISTER].

Mr. HOLLISTER. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. LUCAS].

Mr. LUCAS. Mr. Chairman and members of the Committee, those who oppose this bill have made every argument on the theory that the Federal Government, through its agent, the Reconstruction Finance Corporation, has entered into divers and sundry financial arrangements in the various States upon a competition basis with private interests.

I do not think the gentlemen believe that, but, nevertheless, when one considers the argument they have made, he can reach no other conclusion.

We all know that the Federal Government, through the Reconstruction Finance Corporation, went into the financial field solely for emergency reasons, to preserve the financial stability and integrity of the various communities throughout the United States.

I want to call the attention of Members of the House to one patent instance in the Midwest where a bank was just about to fail, and, in my judgment, would have failed had it not been for the Reconstruction Finance Corporation.

This benificent arm of the Government purchased $50,000,000 of preferred stock in 1933, and at that time the bank had $75,000,000 in common stock. After the purchase the common stock was reduced from $75,000,000 to $25,000,000. The common stock about that time had an aggregate value of about $30,000,000. That is the value at which the common stock would have been assessed by the taxing commission of the State in which the bank was located.

Since that time that common stock has doubled in value by the recovery in the bank's assets and from the earnings, and as a result the bank is now paying approximately twice as much in taxes on the common stock as it did in 1933 because of the increased value of that common stock.

Now, following that theory a little further, if the Reconstruction Finance Corporation had not gone to the assistance of the financial institution, I underake to say that that institution would have failed; and that would have resulted in the depositors of that institution taking anywhere from 10 to 30 percent on the dollar of the money they had deposited therein.

The Reconstruction Finance Corporation gave to the depositors of that institution dollar for dollar. The Reconstruction Finance Corporation saved the directors and the stockholders of that institution from the double-liability assessment. The Reconstruction Finance Corporation also saved at least 75 other banks in and about that community which would have failed had this bank closed at that particular time. The financial independence of community after community was saved by the benevolence and charity of the Federal Government, and how anyone at this time would attempt to tax the goose that laid the golden egg for the hundreds of unfortunate financial institutions is more than I can comprehend. It seems to me so irrational and absurd to lay a tax on the stock now owned by the Reconstruction Finance Corporation that the proposition deserves little or no attention. This purported taxation is utterly unfair. It

would violate every cardinal virtue of equity. We have made much ado about nothing, in my humble opinion. [Applause.]

Mr. REILLY. Mr. Chairman, I yield 7 minutes to the gentleman from Missouri [Mr. WILLIAMS].

Mr. HOLLISTER. Mr. Chairman, I yield the gentleman from Missouri 5 minutes.

Mr. WILLIAMS. Mr. Chairman, I suppose at this late hour there can be nothing new said on this bill, but there are certain things, it seems to me, we ought to agree to. There are certain fundamental facts in this case about which there ought not to be any dispute by anybody. In the first place, the Reconstruction Finance Corporation holds three classes of securities for its investment in the banks of the country—preferred stock in national banks, preferred stock in State banks, and capital notes in State banks. There is not the dotting of an "i" difference between them, and the first proposition I ask is, why should the States be permitted to tax the Reconstruction Finance Corporation's holdings of preferred stock in national banks, when they do not have the right to tax the stock held by the State banks and they cannot tax the capital notes issued by the State banks, which the Reconstruction Finance Corporation is holding for exactly the same kind of loan in each instance. Gentlemen talk about discrimination. Why tax the stock that is held by the Reconstruction Finance Corporation in national banks, when exactly the same kind of stock which they hold of State banks is not subject to taxation, and why tax the Reconstruction Finance Corporation's holdings of preferred stock in national banks when you do not tax and are not permitted to tax the capital notes and debentures held by the Reconstruction Finance Corporation in State banks? I do not think anybody will dispute that proposition. That is the situation we are in. Not only that, but why should you tax the preferred stock held by the Reconstruction Finance Corporation in national banks when the preferred stock it holds in insurance companies of the country is not taxed, and why submit this particular class of stock to taxation when we do not tax a single one of the notes or bonds or mortgages or debentures held to secure loans made to railroads of the country? There is no reason why we should now pass a law subjecting to taxation this particular class of preferred stock. I challenge any man to show a single item outside of real estate held by the Reconstruction Finance Corporation that is subject to taxation under the law as it is now. Why should we tax stock held as security by the Reconstruction Finance Corporation of national banks, when we do not tax the capital notes or the preferred stock of State banks, or the securities of insurance companies and do not tax a single mortgage or note or debenture the Reconstruction Finance Corporation holds as security for the loans made to the railroads and industrial concerns of the country. Is there a man on this floor or anyone else who can differentiate between them? It has not been done so far.

There is not a single governmental agency, not a single instrumentality of Government, that is taxed. The gentleman from Texas [Mr. PATMAN] has been pronounced in his opposition to this bill. He represents the great State of Texas, or a part of it. The gentleman from Texas [Mr. MCFARLANE] has been against the bill, and he represents the agricultural interests. I call attention to the fact that starting back in 1923 we wrote into the law an exemption for every asset, outside of real estate, held by the Federal land banks of the country. Not one of the mortgages held by the Federal land banks as security for loans to farmers of the country is subject to taxation. Take the Federal Farm Mortgage Co. that is making loans to farmers of this country, take the intermediate-credit banks, take the central bank for cooperatives, as well as the regional banks and the Production Credit Corporation, which have been extending every form and character of loans to the farmers of the country. There is not a single dollar of their assets, including the mortgages they hold as security for loans they made, that is subject to taxation by the Nation or States. I ask you, Why pick out this particular stock of the Reconstruction Finance Corporation that is held in national banks of this country and make it subject to taxation when all the property, assets, funds, and securities of all Government lending agencies are exempt from taxation? It is the only one. I challenge anybody to show that there is a dollar of the assets of a single lending agency of the Government that is subject to taxation by State or local authorities.

Now, coming over to the home-loan activities, if you please, the home-loan bank was established in 1932. We wrote into that law an absolute exemption, not only of its capital, not only of its surplus and reserves, but an exemption against all advances that it made to the institutional members in order that they might be passed on to the home-lending agencies to bring relief to the home owners of this country.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. Not now. Then coming farther on down, we created the Home Owners' Loan Corporation in order to help the needy home owners of this country. We wrote into that act a provision that none of the loans which they made, none of the securities which they have, none of the debentures or notes which they took as security for their loans should be subject to taxation either by Federal or State Governments.

Now, the gentleman has talked about the camel getting its nose under the tent. He has talked about precedent, and he talks about this being a bad precedent. Whether it is right or wrong, for a period of at least 12 or 13 years under the administration of both parties, we have adopted that as a national policy. That is, to exempt from taxation by local authorities all agencies which are engaged in lending money to revive the country, to help the home owners, to help the railroads, to help insurance companies, to help the banks. Now, we hear a great howl here about the fact that we are trying to exempt from taxation some $225,000,000 held by the Reconstruction Finance Corporation in the preferred stocks of the national banks of this country. I repeat that there is no man on this floor who can show any difference between this security that is held by the Reconstruction Finance Corporation for loans they have made to the national banks and the stock that is held by them where they made loans to State banks. There is not any difference between those and loans made on capital notes to the State banks. There is not any difference between those and loans made to the insurance companies of this country. There is not any difference between those loans and the loans that have been made to finance the farmers of this country, and there is not any difference between those loans and loans that have been made to finance the home owners of this country to preserve a shelter for themselves and their families. Yet not a dollar of those assets in the hands of any of these lending agencies is subject to taxation either by the Federal Government or by the State government. They talk about the camel getting its nose under the tent. They are straining at a gnat and they have already swallowed the camel. [Applause.]

The CHAIRMAN. The time of the gentleman from Missouri [Mr. WILLIAMS] has expired.

Mr. HOLLISTER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. MCFARLANE].

Mr. MCFARLANE. Mr. Chairman, I am deeply appreciative of this very unlimited generosity in the amount of time that the gentlemen of the committee have so kindly given to us of the opposition. Under the rule adopted we have 4 hours' debate, and, under the rules of the House, the time in debate on the floor is supposed to be divided equally between those for and against a measure. However, on this bill the time on both sides of the aisle has largely been given to those favoring the bill. This makes now 31 minutes for the opposition as against 174 minutes which the proponents of the bill have had. [Applause.]

Mr. REILLY. Only two members of the opposition have sought time at this desk until the time had all been allotted.

Mr. MCFARLANE. I know that the gentleman from Wisconsin [Mr. O'MALLEY] has said he wanted time. I do not know whom he asked. I know he asked on the Republican side. I know the gentleman from Oregon, Governor PIERCE, said he wanted time. I do not know whom he went to see.

The acting chairman of the committee, Mr. GOLDSBOROUGH, spoke at length yesterday, but I notice his speech is not in the RECORD this morning, so we are deprived of the benefit of the statements he made.

Mr. REILLY. I said until the time was all allotted.

Mr. McFARLANE. I am sorry I do not have time to yield further. Let me say, however, I asked for time yesterday when we started the consideration of this bill and Mr. GOLDSBOROUGH's list of requests were very short on the paper before him.

I should like to consider some of the arguments that have been made on the floor by those in favor of this bill. It looks as though this bill has nine lives. The House, after considering this same bill, H. R. 11047, on February 25, defeated same by a record vote of 165 to 173. It is like the black cat. We kill it once, but it comes right back. Under the rules of most any State legislature when you kill a bill in either house the same bill cannot again be considered by either house during the remainder of that session. And this is the first time I have heard of either House of Congress taking up and considering the same bill again after it has been defeated during the same session.

Now, Mr. Chairman, let me briefly call attention to this fact: The privileges that are asked under this bill have never been previously given by any Congress. Since 1864 the different States have had three different ways of taxing bank stocks: First, by taxing the shares; second, by including dividends derived therefrom in the taxable income of an owner or holder thereof; third, by taxing the income of the bank. There has been a lot said about discrimination. I wish I had time to go into the many discriminations that this piece of legislation will set up.

When the Reconstruction Finance Corporation was created in 1932 the national banks did not have the power to issue preferred stock, nor did the Reconstruction Finance Corporation have the power to purchase same. This power was created in the banking legislation rushed through Congress in 1933. There was nothing in this legislation exempting preferred stock in national banks from taxation, and the Supreme Court, in a well-written opinion last month, unanimously so held that all shares of national banks no matter by whom owned shall be subject to taxation.

Now this bill exempts the preferred stock of national banks held by the Reconstruction Finance Corporation from all taxation, National, State, county, municipal, or local from any taxes, past, present, or future. It does not take a Philadelphia lawyer to understand those provisions, and certainly the 31 States who have elected under the above-quoted section 5219 of the R. C. S. U. S. to tax national banks' stock upon their shares of stock realize that the enactment of this law will work a hardship on the State banks and the national banks, not having any of their stock sold to the Reconstruction Finance Corporation, who must pay full taxes based upon their capitalization plus their pro-rata part of the taxes that must be assessed because of the exemption of the bank stock sold by his competitors to the Reconstruction Finance Corporation.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to include certain excerpts. I will not have time to cover everything.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. McFARLANE. Mr. Chairman, the Supreme Court decision in the Maryland case has held what has been the law all the time, very clearly, that preferred stock in these national banks was subject to taxation by State authorities. It is a peculiar thing that all of the proponents of this legislation come here and argue that this bill does not exempt anybody from taxation; that the values are there and they are increased. We have heard a lot about that, but Mr. Jones in his statement in the hearings very clearly shows by tables which he gave this committee, which I inserted in yesterday's RECORD, that if you do not pass this bill the Reconstruction Finance Corporation is going to have to pay on the $229,209,420.33 in preferred stock in these banks which they own, $5,512,736.38. He says further he has agreed to buy over $100,000,000 more of stock, and if this bill is passed it is going to have to require the State and local taxing authorities to hunt up about two and a half million dollars more taxes from the people owning property in the localities where these different banks have sold their stock to the R. F. C.

COMMITTEE HAS ITS NECK BOWED

Now, this is something I am not able to understand. If I am incorrectly advised about the situation, I should like to have it cleared up. As I understand it, Mr. Jones went to the committee and asked the committee to accept the amendments that would strike out this preferred stock and clear up this situation so that the Reconstruction Finance Corporation could get out from under this proposition and pass it back to the respective States as it has always been since 1864, so that the State and local taxing authorities could take charge as they have always had charge.

But the Banking Committee refused to accept these amendments. They have had their necks bowed. I do not know why the committee refuses and fails to follow the suggestions and advice of Mr. Jones, the Chairman of the Reconstruction Finance Corporation. It seems to me that if the Chairman of the R. F. C. is perfectly willing and asks this committee and this Congress to allow him to transfer his preferred stock or trade it into securities that will permit the State taxing authorities to tax this stock—notes or debentures—the R. F. C. will not be hurt, they will not be out any taxes. Adopt these amendments and the bill will then pass this back to the State and local taxing authorities.

[Here the gavel fell.]

Mr. McFARLANE. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. The Chair cannot entertain the request. The time is controlled by the gentleman from Wisconsin and the gentleman from Ohio.

Mr. REILLY. Mr. Chairman, I yield such time as he may desire to the gentleman from Mississippi [Mr. COLMER].

Mr. COLMER. Mr. Chairman and Members of the Committee, since the Congress last year, in response to a national demand for some type of neutrality legislation, undertook the consideration of this important subject, the question has been uppermost in the public mind. Members of the Congress, and especially the Foreign Relations Committee, have devoted much time and intelligent study to this most far-reaching question. In view of the acute situation abroad, the subject continues to be a live one. This is as it should be, because it involves, if indeed it does not threaten, the very welfare of the nationals of this country. The law on this subject of neutrality, which was enacted at the last session and reenacted at this one, provides in substance, in brief, for two major prohibitions: First, an absolute and complete embargo upon the exports of this country of arms, ammunition, and implements of warfare to belligerent countries; second, it carries a prohibition against the carrying of arms, ammunition, and implements of warfare to waring nations in American vessels. It likewise contains two restrictions, which, in my opinion, are minor in the severity of their provisions so far as the economic welfare of our citizenship is concerned. The first of these restrictions provides that belligerents, as to whom the United States is neutral, shall not have the use of the ports of this country for their submarines, and that, likewise, these ports must not be used as a base for supplying the belligerent ships of such countries with arms, ammunition, and the implements of war. The second of these provisions places a restraint upon our own citizens in an effort to prevent their traveling upon belligerent vessels.

One here at the Nation's Capital comes into contact daily with the Senators and Representatives of the several States, who are giving so abundantly of their time and thought to this question and cannot fail to observe an ever manifest undercurrent of dissatisfaction with the present legislation. And we often hear on the floor of the Congress open expressions and read from the current press that the legislation is totally inadequate for the purpose sought, namely, peace in this country and an affirmative effort to prevent our being dragged into another world war.

Mr. Chairman, there is an adage to the effect that in times of peace we should prepare for war. I should like to paraphrase this for the purpose of this discussion and say, "In times of peace, prepare for peace." With Europe a veritable volcano of war at present, with the war clouds of another gigantic war, the like of which possibly the world has never heretofore witnessed, hanging the lowest on the world's horizon, with the diplomatic endeavors of the Old World statesmen daily changing into kaleidoscopic patterns, with the whole of Europe jockeying for position, it must be manifest, even to him who reasons as he runs, that the enemy of civilization and Christianity, the all-powerful god of war, is busy about his task. War is imminent. Just how far distant it is no man can successfully predict. It may be 6 months; it may be 2 years. At the most it cannot be more than 5 years unless something not now apparent develops. In my opinion, conditions in the world today from the standpoint of imminence of another world war are more pronounced than they were 6 months before an all-powerful German war machine rode roughshod over Belgium in 1914. If you question the wisdom of this statement, I would point out to you the fact that today a powerful, militaristic Italy, under the domination of the war lord, Mussolini, bent upon expansion and conquest, is running at liberty over a weaker and almost defenseless black people in Ethiopia. The yellow race of Japan for the past decade, under the domination of the war lords of that nation, has been continually building up a powerful military machine, likewise bent upon a conquest of expansion. Russia looks with uneasy expression and apprehensive eyes upon this program of Japan. The Chinese, powerful in potentiality but defenseless in reality, resent keenly and with a smoldering fire of national pride this aggression on the part of her neighboring, but more powerful, yellow race. To the west the mighty British lion paces uneasily but, withal, cunningly and wisely as he watches over his spreading dominions and counts the effect of these aggressive and hostile acts on his own proud kingdom. The ingenuous and resourceful Germany, under the leadership of the new war lord of that country, has boldly discounted the Locarno Pact and proclaimed the last vestige of the Treaty of Versailles as but another scrap of paper. France is diligent in her efforts to form new alliances and is emotionally appealing to her neighbors and the other civilized countries to rally to her support in defending the Locarno Pact and the Treaty of Versailles. America, the New World giant, once far removed from Europe, but now, as a result of scientific advancements in communication and transportation, not so far removed from the Old World; America—a peace-loving nation, in spite of its suffering from a world-wide depression, with no necessity for expansion, no desire for conquest; rich and happy in its own ideals of government—is wont to remain aloof from the turmoil and maelstrom of Old World diplomacy and warfare. The question uppermost, therefore, in the minds of those of us selected by 126,000,000 peace-loving Americans to represent them in the National Congress is neutrality; those of us who were entrusted with the important task of enacting legislation that will, in the first instance, contribute to the continuation and improvement of the welfare of these 126,000,000 people and, at the same time, see to it that they are not embroiled in an unnecessary warfare, the antithesis of contentment and peace, cannot lightly pass over this momentous question of neutrality.

The all-important question now is what is America going to do about it. What course shall we pursue? Mr. Chairman, as I see it, we are confronted with two alternate problems—an economic one and one of peace. There are those in this country who belong to the school of thought that advocates the enrichment of this country economically at the expense of world peace, including the peace of this country. The members of this school of thought, among whom are numbered the munition and arms makers, would have us manufacture every conceivable contraband of war and export this to any and all belligerents. They argue that this would bring about a return of prosperity to this country that would excel even that of 1914 to 1919; that it would reduce, if not entirely annihilate, unemployment. I cannot subscribe to this doctrine. If the recent investigation of the senatorial body that investigated this matter can be relied upon, these same proponents advocated the same thing with the result that we were brought into the last World War. This preachment means, at the most, if followed, that this country would become prosperous as a result of the innocent blood that always flows on the battlefields and the tears that come from weeping eyes of loved ones. This doctrine is conceived in greed and born in intrigue. It is repulsive to the teachings of Christianity and civilization.

Again, there are those who belong to another school of thought. They advocate peace at any price. To them the flag is but a piece of colorful bunting. Their doctrine is that of the pacifist, which is beautiful in theory but impractical in a sinful world which, unfortunately, does not practice the Golden Rule. This latter doctrine, if followed, could lead to but one end—the devastation of this rich country, with the eventual enslavement of its people, whose heritage is repugnant to this false doctrine.

Somewhere there must be a sane, sound policy for this country to pursue. To my conception there is but one answer—armed neutrality. We can be neutral, but we must be strong enough to demand the respect of those warlike nations who profess a desire for peace and at the same time are, with wanton abandonment, bent upon a policy of economic expansion and aggression.

Is it necessary for me to point out to my colleagues here that treaties, pacts, and agreements are worthless in a world of nations who are arming to the limit of their economic ability; when aggression and expansion are the ultimate desires of so many nations of the world? Is it necessary to call your attention to the fact that a peaceful overture of one powerful nation to another today is withdrawn almost before an opportunity for its acceptance has been given? The order of procedure among the nations of the world today is so selfish and so self-centered that one is reminded of a public auction where the highest bidder is the purchaser of the thing sought. A powerful nation through its diplomatic circles issues a strong denunciation today of the encroachment upon the national rights of a weaker nation. A few months later the same powerful nation, when it is either to the economic or strategic interest of that nation to do so, barters or negotiates with the same nation that it has so recently denounced. We have seen treaties, pacts, and agreements thrown overboard, apparently without rhyme or reason other than that might makes right. Apparently, therefore, we are driven to the conclusion that, however desirable and beautiful are world courts, leagues of nations, and international agreements for disarmament in their theory, we are confronted, as peace loving as we are, with the realization that we are dealing with nations, who, like men, have as their controlling factor a selfish desire to prosper at the other fellow's expense.

In this situation are we not driven, driven reluctantly, but nevertheless driven, to a little selfish consideration of our own national preservation? Because of this unfortunate situation our Navy and our Army, and more especially our Navy, must be built up to the point where it will be excelled by none, not even that of Great Britain. Our vast shore lines and outlying possessions must be protected. American integrity and American nationality must be conserved. The heritage purchased by our glorious ancestry, with its institutions and its ideals, must be maintained. When Europe and the rest of the world has awakened to the truth that peace is precious and that the race in armaments and warfare must end, then—and not until then—can America afford to cease its vigilance.

I am confident that no one who is familiar with my record and utterances can rightfully challenge my fervent desire for peace—my hatred of war. National peace and an opportunity to pleasantly travel the road of peaceful pursuits is as zealously coveted by me as any pacifist in this country. I am in no sense a militarist—I abhor war. The memory of 1917 and 1918 is too fresh in my mind, as in yours, for me to be swept off my feet by either the siren song of the pacifist or the jingoism of false prophets of patriotism. Like the

four-hundred-and-odd thousand patriotic American citizens in Mississippi whom I have the honor to represent, I am seeking a means and a policy to maintain that coveted but elusive peace.

The critics of this policy of armed neutrality point with alarm to the tremendous financial cost of maintaining a strong army and navy and attempt to argue the benefits that would flow from the expenditure of the same money in peaceful pursuits. With this argument we have no fault. This argument is academic. If it were humanly possible to convince the European war lords of the logic of the premises of this argument, this, indeed, would be a happy and warless world. But again we must remind ourselves that we are confronted with a present serious reality and condition not of our own choice, rather than a theoretical condition, however desirable and cherished. One might as well argue that a peace officer should not be armed when he attempts to combat a desperate criminal.

We are not unmindful of the fact that an adequate armed force for this country is an expensive necessity, costing as it does millions of dollars to maintain. Neither can we forget that our recent venture into the arena of the World War cost the taxpayers of this country in excess of $50,000,000,000 in money alone, and we have not seen the end yet. But of more moment still, where is the American home that did not feel more keenly the loss or injury of some loved one who was called upon to offer his blood upon the fields of horror in the hellishness of modern warfare?

For America the cost of that war is not yet paid, either in money or in blood. The veterans of that war, many of whom are maimed in body and mind, as well as the taxpayers, are still paying—and will pay for years to come. For them that war is not yet over.

Mr. Chairman, when I first came to Washington I felt it my patriotic duty to make a pilgrimage to historic Arlington Cemetery, just across the beautiful Potomac, and there at the Shrine of the Unknown Soldier to make my obeisance and pay my silent tribute to him whom a grateful America has honored as a symbol of the countless thousands of his comrades who, like himself, had made the supreme sacrifice on the altar of the god of war. There in the grim presence of this nameless hero my thoughts were of the necessity of peace. I verily hated war. A few days later I visited the tomb of one of America's greatest statesmen, a man who, by his early training, received in a Christian home, loved and craved peace above every other thing. There in a crypt in Bethlehem Chapel I stood awed in the presence of the tomb of the wartime President, the peerless Woodrow Wilson. My thoughts traveled back to the days of 1916, to those hectic days when Europe was afire with war and intrigue. I remembered then, as you recall now, his vain efforts to keep America neutral and the heroic efforts he made to keep us out of war. There before me in this beautiful cathedral lay the mortal remains of a great apostle of peace. Here lay all that was mortal of the man who, having failed in his noble efforts to keep this country out of war, had gone to Europe at the conclusion of the carnage to force his ideals of peace upon a belligerent world, with the commendable purpose of preventing the horrible spectacle of another great war, such as apparently is in the making today. But, alas, the greed for power and the lust for expansion and conquest of the world diplomats thwarted his plans, and Woodrow Wilson came home sick and disillusioned; another casualty of the war; an idealist crushed by his own ideals.

Not long since, Mr. Chairman, I visited Mount Vernon, the home of him who gave life to the Republic, the greatest patriot, possibly, of them all. I followed the winding brick walk down the slope of the hill until I stood in the majestic presence of the tomb of George Washington, nestling at the foot of the hill, surrounded and shaded by a beautiful copse of woods. I remembered with increasing pride and respect his patriotism, his valor, and his wisdom. There comes back to my mind, as it should be indelibly impressed upon the mind of every American patriot, the wisdom of his farewell message, delivered to the American people when he surrendered the portfolio of office and gracefully retired to private life. From his wisdom, experience, and zeal for the welfare of the country he loved, he enjoined:

> Observe good faith and justice toward all nations; cultivate peace and harmony with all.
>
> Taking care always to keep ourselves, by suitable establishments, on a respectable *defensive posture*, we may safely trust to temporary alliances for extraordinary emergencies.

Mr. Chairman, let us in the present status of world affairs follow the advice of that great Patriot and Seer who sleeps at Mount Vernon. Let us maintain a policy of strict neutrality; live up to the letter and spirit of the neutrality law so recently enacted, and thereby serve notice upon a warring world that America desires peace; that she maintains a strict neutrality so long as she is allowed to pursue that course; but that by the means and methods of her perfected armed forces she here and now warns those who would break that peace with her that there will inevitably and surely be but one result, the annihilation of that aggressor. Then, and then alone, will we be able to maintain neutrality and enjoy coveted peace. [Applause.]

Mr. REILLY. Mr. Chairman, I yield to the gentleman from California [Mr. FORD] 5 minutes.

Mr. FORD of California. Mr. Chairman, the bill under discussion, S. 3978, is easily understood. Its purpose is twofold.

First. To exempt from taxation that particular class of preferred stock which the Congress authorized the Reconstruction Finance Corporation to buy from national banks and from such State banks as were authorized by the laws of their States to issue preferred stock. The provision is clearly stated that the exemption shall apply only so long as the stock is held by the Reconstruction Finance Corporation.

The R. F. C. also took from banks where State laws prohibited preferred stock capital notes and debentures. These capital notes and debentures are generally conceded to be nontaxable. They bear the same rate of interest as the preferred stock—3½ percent—the difference being that in the case of the preferred stock it is called dividends. For all practical purposes stock, capital notes, and debentures are identical in all but name, and were devised for the same purpose, that of enabling the R. F. C. to stage a rescue party and one that has proved highly successful. For it has saved billions of dollars to bank depositors all over the Nation and has also preserved billions of taxable value to the States that would have been lost if the banks had not been saved and a general debacle prevented.

The second section of this bill provides that where the R. F. C. loans money to closed banks at 3½ percent the receivers of those banks must then reduce the interest on notes and other forms of debts owed the bank to a rate not to exceed 4½ percent.

This is entirely just and fair to our people who have borrowed money from banks now closed. If the debtor is manfully trying to meet his obligation, he should be given the benefit of lower rates of interest. To give the bank a low rate and permit the bank to exact from its debtors a high rate would be manifestly unjust. This section of the bill seeks to protect borrowers of closed banks.

When this bill was up some days ago it was opposed by some Members on the ground that it provided a new form of tax-exempt security. Study of the bill definitely disproves this statement.

Let me make this statement: This preferred stock not only is not a tax-exempt security but it is a security that has actually been responsible for the preservation of taxable wealth that otherwise would have been wiped out in the general deflation. In some instances it has created new taxable wealth.

A tax-exempt security is a form of obligation issued by National, State, or local Government. Regardless of who owns it, such a security is exempt from tax.

I hope the time will soon come when we shall cease to issue tax-exempt securities. This has nothing to do with the present bill because the preferred stock specified in the bill is tax exempt only so long as it is held by the Reconstruction Finance Corporation, an agency of the United States Government. The specified securities were purchased

by that Corporation, not for profit but solely to protect the people's deposits in banks. The exemption of these securities from taxation does not take from the States or other governmental subdivisions one dollar of taxable wealth. On the contrary, as before stated, the purchase by the R. F. C. of these securities has been the means of preserving for the States and other governmental subdivisions literally billions of dollars of taxable wealth.

Finally, the test is this: If the exemption from taxation is not made, who will pay the tax? The answer is: The R. F. C., which is an agency of the Federal Government. Therefore, it is the people of the United States who will pay this tax to such States as may choose to levy it if we fail to pass this bill.

Mr. HOLLISTER. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky [Mr. SPENCE].

Mr. SPENCE. Mr. Chairman, whenever a bill is reported by the Banking and Currency Committee a red herring seems to be drawn across the trail, and immediately the cry goes up that it is a bankers' bill. The Committee on Banking and Currency does not represent the bankers of America; it represents the financial institutions; it represents commerce, industry, and agriculture; it represents the 51,000,000 depositors who are dependent upon the banks for the safety of their savings; it represents the widows and orphans of America who are the beneficiaries of the trust funds in the banks.

I think this bill carries out a fundamental principle of the Constitution. This bill is fundamentally sound, not considered from the specific remedy it gives, but because it is in accord with the fundamental principles of our Government.

The power to tax is the power to destroy. If you allow the National Government to tax the governmental functions of the States, and if you allow the States to tax the functions of the National Government, you give into the hands of each the power to destroy the other. This will result in confusion worse confounded, and the founders of our Government did not expect any such result to accrue.

We would not have had a bit of trouble with this bill if it had not been that a certain distinguished gentleman from Texas had a fundamental misconception as to what would result.

He believes that if you reduce the number of shares of capital stock of the banks you reduce the yield in taxes to the State. That is not true. It has been said here today, and it has been said over and over again, and it is true, that the common-stock holders are the owners of the corporation, and whether the stock is of the par value of a million dollars, or a hundred dollars in par value, it represents the same thing. It represents the ownership of the corporation, and it represents the assets of the corporation.

In every State I am sure there is a certain formula in reference to ascertaining the taxable value of stock. It has been said that stock regardless of its value is taxed at par. What a ridiculous thing that would be. Here is a man that owns $100 of stock in a bank that is worth $300. Here is another man who owns $100 in stock in a bank that is worth $50. The tax rate is the same. Uniformity of taxation is a fundamental principle. If you tax the man who owns $50 in actual value the same as you tax a man who owns $300 in actual value you take away his property under the guise of taxation, without due process of law. You deny him equal protection of the law.

[Here the gavel fell.]

Mr. HOLLISTER. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. O'MALLEY].

Mr. O'MALLEY. Mr. Chairman, like my good friend from Texas [Mr. MCFARLANE], I am not proud. I learned about 3 years ago that if I was against a bill a committee brought out it was a rather difficult matter to get time from the majority side of the committee. So I usually go over to the Republican side, because I believe in trying to present my views. Today I was rewarded by their exceptional courtesy and received some time to oppose this measure, although denied such time by the Democratic side.

Mr. Chairman, I voted against this bill the last time it was up here for consideration and I intend to vote against it this time. I cannot begin to compete with the arguments of the bankers in reference to the technicalities of tax liability, most of their arguments being designed to confuse the issue. I do know that if we pass this legislation we take away a right from the States that they now enjoy. I think I am enough of a Jeffersonian Democrat to oppose taking away any more rights from the States. As a matter of fact, I would like to see the States get some of those rights back again that have been taken away from them in the last 10 years. That is the only principle upon which I am going to vote against the bill, although had I supported it before, the procedure under which it comes here today would arouse my suspicions.

Mr. Chairman, the thing that interested me today was the procedure by which this issue is again raised in the House. I was under the impression that we had disposed of this matter previously. I find, however, that even though I have once registered my vote on this same issue and same principle, it is brought up again, and were I not here to protect my record I would be placed in the unfair position of not standing by my record and principles on this bill. I would like to know about the procedure. Supposing the same procedure was followed by all committees that has been followed in the case of this bill. Suppose that the committee of which I am a member, the Indian Affairs Committee, brings up a bill for consideration in the House and it is defeated. Suppose further we have in the committee a similar Senate bill. Suppose we wait until all the Members who voted against our bill are absent from the House and then bring it up again. The implication is quite obvious, and the result is quite obvious, although the result would not be the true voice of the House.

Mr. Chairman, there is another question I would like to propound in connection with the procedure that brings this bill before the House again after having once been defeated. Does it infer that a changed vote on the part of the Members who defeated this issue about 10 days ago that they did not know what the bill was all about when they voted against it at that time? Now, if they change their vote are they confessing error and mistake or are they confessing discipline and persuasion?

Mr. MCFARLANE. Will the gentleman yield?

Mr. O'MALLEY. I yield to the gentleman from Texas.

Mr. MCFARLANE. The $30,000-a-year president of the Texas Bankers' Association has wired all the Texas Congressmen. I take it that the other banks and their lobby have been working since the defeat of this bill, and this time they expect to put it over.

Mr. O'MALLEY. May I say to the gentleman from Texas that I want to point out the implication which rises after the House has defeated an issue and then the same issue is brought in here again under the same conditions. We have not been able to get a rule upon the Frazier-Lemke bill to aid the farmers of this country, but two rules can be obtained in a few days on a defeated bill affecting the powerful bankers of the country.

Mr. Chairman, there are a lot of Members who voted against this bill absent today. They were undoubtedly under the impression that the issue had been disposed of at that time once and for all for this session. I wonder what mysterious power there is that brings in an issue which the representatives of the American people have already disposed of? What procedure makes it possible to have that bill again brought into this House for consideration? If our parliamentary procedure is such as to make this possible, I think we ought to change such unfair procedure. Once we have disposed of an issue, it was always my understanding of our parliamentary government that we have thereupon echoed the voice of the people we represent and that same issue could not be brought up again in a session to be talked to death or voted passed by methods designed to persuade Members to change their votes. [Applause.]

Mr. REILLY. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. KELLER].

Mr. KELLER. Mr. Chairman, the two largest counties in the twenty-fifth Illinois district had every one of their banks go broke during the past few years. If we are to get back on our feet we will have to have banking facilities. We have been struggling from that time to this hoping that we may have at least four new banks for the four largest cities in those two populous counties. We believe we are in sight of our part of the money if we can get the R. F. C. to take the preferred stock. We believe we are in sight of the organization of four new banks. Without this R. F. C. money we cannot get these banks. Without this money we cannot hope within any reasonable time to get back to a state of prosperity. If we do get that money we can form four new banks through the issuance of this preferred stock. If we keep up the tax rate that is necessarily in effect at the present time, under our unfortunate condition, and if we apply this local tax rate to the R. F. C. preferred stock, it would not only take all of the 3½ percent, but would absorb within a few years the whole amount of money which the R. F. C. would advance to us.

Therefore the R. F. C. would not be justified in giving us the money we absolutely require. The statement I am making for my own district applies, I have no doubt, to every other district in this country where the banking facilities still require part of this $100,000,000 we are talking about. Not only will this bill not deny the right to get taxes for local uses, but it will bring back into our community in due course hundreds of thousands of dollars of taxable property which prosperity will return to us, and will give our counties and our States and our municipalities the tax we must have to carry on. This R. F. C. aid has done this very thing everywhere it has been used to strengthen weakened banks and to establish new banks.

I therefore am unable to see why any man should stand up here and admit that the $400,000,000 that has already been advanced along this line shall not be taxed, and then turn around to these communities which have not yet been in position to take advantage of the offers of the R. F. C. to establish new banks where old ones have failed, which are the most unfortunate communities of all, and say to them, "Now, you shall not have the money; we are not going to let you have the money to revitalize yourselves, because you are too late. It has taken you too long to get on your feet again. It is just your bad luck. We could help you but we will not." The fact is that this $100,000,000 that is still available, as I understand it, will go to just that class of community which has been the most unfortunate and which requires and will continue to require the advance that the R. F. C. provides. If we get that we will come back. If we do not, it will take a long, long time to come back. And this is the whole thing in a nutshell.

The whole question we are answering here today is whether we are going to permit the $400,000,000 to go on and not be taxed—and it has not been and ought not to—but tax the next $100,000,000 advanced to the most unfortunate parts of the country. There is no movement, and no desire on the part of anyone, to go on and tax the $400,000,000 that is already out. It is simply the desire of the opponents of this bill to begin limiting or prohibiting the extension of the assistance to the R. F. C. that has worked such wonders toward recovery since its establishment.

[Here the gavel fell.]

Mr. HOLLISTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are coming to the end of a long and rather wearisome discussion. At the risk of wearying you still more in the short time remaining, I shall try to recapitulate what this bill does and take up in detail the chief objections which have been raised to it.

Section 5219 of the Revised Statutes, which deals with the taxation of national banks, provides that taxation may be made in three different ways: By the taxation of the bank shares themselves, by the taxation of the dividends on those shares, and by the taxation of the banks on their earnings.

That is, roughly, a summary of the statute. All we are concerned with here are the 31 States which tax the shares of the national banks themselves.

Prior to the time when the Reconstruction Finance Corporation came into the field the question which you have heard batted back and forth, one side making one allegation and one side making another, as to who, whether the bank or the stockholder, pays the tax, was a moot question. Manifestly, when there was no stock in any bank but common stock it was immaterial whether the bank paid the tax and had less dividends, if any, for the common-stock holders, or whether the bank declared a theoretical dividend on the stock and then proceeded to deduct the amount of the tax before it paid the dividend.

The instant that preferred stock in national banks was sold, which was done under authority of the Emergency Banking Act of March 1933, a different picture naturally presented itself because of the fact that preferred stock was on a fixed rate of return.

The Reconstruction Finance Corporation, acting very rapidly under the exigencies of the circumstances and operating under the Emergency Banking Act of 1933, proceeded to acquire preferred stock in national banks, and proceeded in the course of the transaction to make a contract which, of course, the holder of any preferred stock makes to hold the stock on a fixed-return basis. This return was made, as you have been told time after time in this discussion, on such a low rate that if the Reconstruction Finance Corporation is compelled to pay taxes, by the time it deducts them, as it must, for the bank will pass them on to it, there is nothing left of the spread that the R. F. C. had allowed for operation purposes. To this extent, therefore, the Reconstruction Finance Corporation will run behind on its operation in connection with these banks, to the extent of two or three or four or five million dollars. The amount is not material, because it is the principle we are discussing, and I, myself, have not analyzed the figures. It amounts, however, to several million dollars.

This is the gist of the bill. It simply establishes the fact that this stock, when held by the Reconstruction Finance Corporation, and not when held by any private individual, when held by this emergency institution which went into certain localities to help out when it was impossible for the community itself to do the job, shall not be taxed and the R. F. C. shall not suffer as a result of its action.

Now, to take up in turn some of the fallacies which have been presented, some of them sincere and some of them thrown up as a smoke screen. In the first place, it is said this bill takes away from the States rights which they have now. The joker lies in what "now" means.

Of course, if the bill is not passed, the States have the right under the decision of the Supreme Court in the Maryland case to tax preferred stock in national banks. The bill removes that right. But that is only a right which has existed since the Reconstruction Finance Corporation came into being. There is no taking away any right which the State had before the Reconstruction Finance Corporation stepped into the picture.

It has been said that there will be a loss of revenue to the States. Of course, if the Reconstruction Finance Corporation holdings are taxed the States will get a revenue which they did not have previously, but there is no taking away of revenue that any State had previously.

It has been said that the common stock of banks was taxed and that preferred stock has taken its place, that this has effected a substitution in some way and that if we exempt from taxation this preferred stock there will be removed a right the States previously had. That is an untrue statement. If you go into the logic of it and see how it operates, you will find the result is that the common stock, which is taxable, has been increased in value because the bank is in a sounder position.

Let us assume that a bank has a common stock of $100,000. Whether you divide it into 500 shares or 1,000 shares, the common stock is of a certain total value. It is not taking away anything of taxable value if you reduce in number the

shares of common stock in order to make allowance for impairment of capital or if you double the shares in number for some purpose or other.

The common stock is still taxable, before and after, in the same way, at its actual value. When the Reconstruction Finance Corporation moves in and puts $100,000 more in preferred stock into that institution, it affects in no way the common stock that was taxable before, except insofar as that bank, being in a sounder position to do business, has common stock of a greater value than before; and if the stock is taxed on an ad valorem basis, the proper way to tax, there is greater revenue. The Reconstruction Finance Corporation by putting new capital into that bank really increases the value of the common stock. So, quite the contrary from the common stock being taken off the tax list, as a matter of fact the addition of the Reconstruction Finance Corporation capital has increased the value of the common stock on the tax list.

Reference has been made to the analogy between the Home Owners' Loan Corporation and the Farm Credit Administration, where the Government has acquired real estate, perhaps under foreclosure and the situation before us now. It has been said that the situations are similar, and that we are removing property from taxation which was previously taxed. That, again, is a false statement. In the case of real estate which may be acquired by the Home Owners' Loan Corporation or Farm Credit Administration, manifestly it was always on the tax duplicate. There is no analogy between the acquisition of real estate by the Government which, if exempted from taxation, would naturally reduce the value of the tax list, and this particular situation. In every case where real estate is acquired by the Government, if it should be exempted from taxation, it removes property which was valued on the tax list of the community, while in the instant case all this money which was put in by the Reconstruction Finance Corporation is newly created property—not property which was on the tax list prior to the time the Reconstruction Finance Corporation entered the field. It is new money placed there to help that community, and if exempted from taxation it can, therefore, in no sense be a deprivation of the State of property which it had previously taxed.

Mr. PIERCE. Mr. Chairman, will the gentleman yield?

Mr. HOLLISTER. Not until I finish my statement, and then I shall be glad to yield first to the gentleman from Oregon.

Another criticism which has been leveled against this bill is that it is another tax-exempt security. This bill has nothing to do with tax-exempt securities, as we understand them. Let us analyze the philosophy of the opposition to tax-exempt securities. It is that wealthy people should not be in a position to acquire investments which, in the event they are Government securities, are exempted from State taxation, and specifically exempted perhaps from certain income taxes, or if they are State securities, are exempt from Federal taxation, and the holder goes tax free. Manifestly that is the philosophy behind the argument that we should have less and less tax-exempt securities, and perhaps eliminate what we already have now. There is no situation of that kind here. These are not securities in which an individual may invest. The instant an individual invests in any of the preferred stock that we are discussing, at that instant it becomes taxable. These are tax exempt only in the possession of an arm of the Government. Therefore, the argument about tax-exempt securities has nothing to do with what we are discussing here.

I have tried to point out the different fallacies which have been brought up and to answer each one of them in turn. Now in the short time left I would like to yield to anyone who wishes to ask me a specific question in reference to the bill. I yield, first, to the gentleman from Oregon.

Mr. PIERCE. The gentleman said it was newly created wealth. It is newly created by selling tax-exempt bonds, is it not?

Mr. HOLLISTER. They are not bonds.

Mr. PIERCE. The R. F. C. does not have the money. It gets the money by selling tax-exempt bonds.

Mr. HOLLISTER. The gentleman is correct to that extent, for everything the Government does must be financed by the Government.

Mr. PIERCE. This extends the right to sell more tax-exempt securities.

Mr. HOLLISTER. The gentleman's argument would apply to all Government agencies.

Mr. PIERCE. And I am opposed to all tax-exempt bonds.

Mr. KVALE. Mr. Chairman, will the gentleman yield?

Mr. HOLLISTER. Yes.

Mr. KVALE. The gentleman spoke about the appreciation of values and the creation of new wealth in connection with these loans or investments, as he may choose to call them; but were not these loans or investments, whichever they may be, originally made for the purpose of bolstering what was considered to be crumbling existing values rather than the creation of new values?

Mr. HOLLISTER. Let me answer the gentleman in this way: Manifestly a bank which is in difficulties, and may perhaps be on the verge of closing its doors, or at least is not able to operate promptly, has common stock which has no taxable value. If, however, new capital is put in in the way of preferred stock, so that the bank has an adequate capital structure for its deposits and the carrying on of its business, the bank may again become prosperous and manifestly that old common stock, which had no value, is increased in value to a substantial extent.

Mr. KVALE. If it was a quid pro quo, if it was a matter of simply extending a loan on the basis of collateral that was considered adequate, I do not see the gentleman's point that new wealth is created.

Mr. HOLLISTER. We are not discussing the question of loans on collateral. We are talking about new capital being put in and preferred stock issued for that new capital. If the bank is successful, manifestly that increases the actual market value of the old common stock which was there before.

Mr. KVALE. Evidently I do not have the understanding of the subject that my friend has.

Mr. HOLLISTER. I will try to explain it to the gentleman later.

Mr. LAMBETH. Mr. Chairman, will the gentleman yield?

Mr. HOLLISTER. I yield.

Mr. LAMBETH. I wish to ask a question, which, while not directly pertinent, seems to have an indirect bearing. When the Reconstruction Finance Corporation purchases the bonds of a railroad corporation, are those bonds not subject to taxation?

Mr. HOLLISTER. If the Reconstruction Finance Corporation acquires bonds, notes, debentures, something outside of capital stock, which is taxed at the situs, the Reconstruction Finance Corporation, having a situs in Washington and being a Government agency, such holdings would not be taxed by State laws, I would suppose.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. HOLLISTER. I yield.

Mr. O'MALLEY. It is stated in the bill that the Reconstruction Finance Corporation owns this stock. Is it not a fact, within the terms of the contract that the Reconstruction Finance Corporation has with the bank, the Reconstruction Finance Corporation is compelled to give that stock back to the bank when the loan is paid?

Mr. HOLLISTER. The gentleman knows that is almost always the situation with reference to all preferred stock of corporations. Almost every preferred stock contains provisions that the corporation may retire it if it so desires.

Mr. O'MALLEY. That is in the stock indenture?

Mr. HOLLISTER. Yes.

Mr. O'MALLEY. Then, if the Reconstruction Finance Corporation cannot elect, under the terms of the contract they have with the bank, the length of their ownership, they do not actually own the stock?

Mr. HOLLISTER. Oh, I beg the gentleman's pardon. That is the way with every corporate preferred stock. Almost every corporation has a contract with the stockholder that the corporation has the right to retire its preferred stock.

If a corporation has a right to retire its preferred stock at, say, 105, it may do so, but the ownership is none the less the ownership of the stockholder until the option is exercised.

Mr. PATMAN. Mr. Chairman, will the gentleman yield?

Mr. HOLLISTER. I yield.

Mr. PATMAN. The gentleman understands——

Mr. HOLLISTER. Will the gentleman please not say what I understand? I yield for the gentleman to ask a question, but I do not want the gentleman to say what I understand. I have heard him do that too often.

Mr. PATMAN. Will the gentleman support an amendment that will not cause the Reconstruction Finance Corporation to pay out any money on these taxes, but will prevent future contracts from being made which will take taxable property away from local communities?

Mr. HOLLISTER. If such an amendment would not be discriminative, I would; but I cannot conceive of such an amendment that would not make discriminations.

The CHAIRMAN. The time of the gentleman from Ohio has expired. All time has expired.

The Clerk read as follows:

Be it enacted, etc., That section 304 of the act entitled "An act to provide relief in the existing national emergency in banking and for other purposes", approved March 9, 1933, as amended, be further amended by adding at the end thereof the following:

"Notwithstanding any other provision of law or any privilege or consent to tax expressly or impliedly granted thereby, the shares of preferred stock of national banking associations, and the shares of preferred stock, capital notes, and debentures of State banks and trust companies, heretofore or hereafter acquired by Reconstruction Finance Corporation, and the dividends or interest derived therefrom by the Reconstruction Finance Corporation, shall not, so long as Reconstruction Finance Corporation shall continue to own the same, be subject to any taxation by the United States, by any Territory, dependency, or possession thereof, or the District of Columbia, or by any State, county, municipality, or local taxing authority, whether now, heretofore, or hereafter imposed, levied, or assessed, and whether for a past, present, or future taxing period."

Mr. BANKHEAD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, within the brief time I shall consume in discussing this matter upon the general principles involved in the bill, I will not undertake to recapitulate the arguments that have been made in favor of its passage. It seems to me that the problem with which we are confronted is a very simple one, in essence; that is, whether you are going to single out one particular field of property owned by a strictly governmental agency and subject it to State and municipal taxes, whereas every other piece of property of this nature is specifically exempted from taxation by the States and by municipalities.

Now, how is this measure presented here? It is apparent to me from a reading of section 10 of the original Reconstruction Finance Corporation bill that it was clearly, beyond all peradventure, the intent and purpose of the framers of that bill, which was in large measure a bipartisan product, and it was the intention and purpose of the Executive who approved that bill to exempt from State and local taxation the Government securities owned by the Reconstruction Finance Corporation. That construction, as I understand, has been given by the attorneys general in a great number of States. A great number of States under their statutes are prevented and prohibited from taxing Government securities of this kind. It was only because of a technical decision arising in a suit brought by the commissioner of banks in Maryland that the Supreme Court of the United States, and very properly, I imagine, under the strict construction of the statute, held that under the language of the bill as it then stood without this amendment, these securities held by the Reconstruction Finance Corporation were taxable by the States.

Why, gentlemen, as a matter of common equity, as a matter of common patriotism—and this is not a partisan question we are discussing here because the beneficent provisions and operations of this great corporation certainly transcend all party lines—why should we single out a particular type of security held by a great eleemosynary Federal organization and say, "The State shall tax this property but the State may not tax any other property held by the Federal Government for any local purpose"? As one gentleman said to me a few moments ago in private conversation referring to the old parable in Scripture of the good Samaritan, if you carry out this idea of taxing these securities of the Federal Government you are allowing the priest and the Levite to escape and are laying the penalty on this good Samaritan, the Reconstruction Finance Corporation. It has been such a beneficent, such a potent, such a helpful thing to many of the great communities of this country, great communities and small communities. What would have been the business structure of this country today, my friends, in thousands of localities where this agency has come to the relief of the banks and their stockholders if it had not been for its operations? Five million dollars to seven million dollars of taxes you are laying here upon this instrumentality of the Federal Government which you organized for the purpose of reconstructing the credit of the country. It seems to me that with the administration endorsing this bill and with the great man who is at the head of the Reconstruction Finance Corporation, Jesse Jones, appealing to this Congress as a matter of business equity for you to pass it, when it comes here by the unanimous support of Republican and Democratic members of this Committee on Banking and Currency, when its merits have been argued and presented to you, it seems to me that despite any preconceived notion you may have had with reference to the merits of the bill and after this the second time it has been presented for your consideration, that under all these circumstances you ought to grant the request of the Administrator of this great nonpartisan, bipartisan, patriotic institution which is operating for the benefit of all of the people of the United States. I trust this bill may be passed today. [Applause.]

Mr. REILLY. Mr. Chairman, I move to strike out the last two words.

Mr. PATMAN. Mr. Chairman, I rise in opposition to the pro-forma amendment and ask for recognition.

The CHAIRMAN. The Chair will be compelled to recognize the gentleman from Wisconsin, a member of the committee, both Members having risen on pro-forma amendments.

Mr. PATMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PATMAN. The point of order is that two Members rose, the gentleman from Wisconsin and myself. The gentleman from Wisconsin asked recognition to strike out the last two words. I ask for recognition in opposition to the pro-forma amendment which is pending. I think I am entitled to recognition.

Mr. REILLY. Mr. Chairman, I will yield the floor at this time.

The CHAIRMAN. It is a matter for the gentleman from Wisconsin to decide. The Chair understood that both the gentleman from Wisconsin and the gentleman from Texas rose on pro-forma amendments, and the Chair recognized the gentleman from Wisconsin, a member of the committee; but he having yielded the floor, the gentleman from Texas is recognized.

Mr. PATMAN. Mr. Chairman, in view of the fact that 240 minutes were allowed for debate on this bill, and the opponents used only 37 minutes of the time, and a great deal of that time was taken up in answering questions propounded by the committee, I ask unanimous consent that I may proceed for 10 additional minutes.

Mr. WOLCOTT. Mr. Chairman, reserving the right to object, the gentleman said "10 additional minutes." Does this mean 15 minutes altogether?

The CHAIRMAN. That is the way the Chair interprets the request.

Is there objection to the request of the gentleman from Texas to proceed for 10 additional minutes?

There was no objection.

AGREEMENT ABOUT BILL

Mr. PATMAN. Mr. Chairman, I am not taking issue with my distinguished colleague, the majority leader at this time; I am not opposing anything he said. I had an agreement

about this bill. As I said yesterday I did not trade with the committee, but I had an agreement about this bill.

When this matter was under consideration before in the form of a House bill the opposition presented certain arguments why the bill should be defeated. We are not going back on those arguments, as has been charged; nor are we inconsistent, as has been charged. We spent nights and days before the Banking and Currency Committee and with the officials of the Reconstruction Finance Corporation trying to iron out the differences to do just exactly what the gentleman from Alabama [Mr. BANKHEAD] said should be done.

Finally I said: "If you will convince me that you cannot raise the interest rate from 3½ percent back to 6 so as to take care of local taxes, although I am not in favor of the principle—I am opposed to it; I believed that the R. F. C. made these loans in good faith—I am willing to yield on that. I am willing to yield on it provided you will yield on this, that you will not permit it to be done in the future."

This was what I considered the agreement, and the acting chairman of this committee told me that he would let me know at 12 o'clock yesterday if he would carry it out and not oppose the amendment I proposed, to strike out the words "or hereafter." At 12 o'clock yesterday on this floor he said he had consulted with members of the committee on the majority side and they would not oppose the amendment.

TRAPPED—NEVER AGAIN

Now I am placed in a position of disadvantage. Members who do not want the bill to pass in any form will vote against my amendment, and since the committee has gone back on me—that is, I thought the majority members would support it—my amendment will not get many votes. It is exceedingly hard for me to carry out my promise, but if the heavens fall I will do what I said and make a sincere effort to do it. My word is out to leaders of the administration and officials of the R. F. C. Never again will I permit myself to get in this position. If carried out it would have been all right, but it is certainly embarrassing when I am the only one carrying out the agreement. This is the unfairest method I have ever known to be used to place an opponent at a disadvantage. I will suffer for relying on what I considered a promise, but I hope to never get into such a predicament again. What hurts me is I was yielding to be helpful, at the same time gaining a major objective, but the result was I was trapped. This bill was defeated by a vote of 165 to 173 on February 25, 1936, and it would have been defeated again if I had not spent several days and nights cooperating in an effort to be helpful.

AGREEMENT NOT CARRIED OUT

I acted on what I thought was the agreement. I believed they would carry it out. The rule came up for consideration yesterday and the Acting Chairman of the Committee on Rules, Mr. SABATH, asked me about time. I told him that we had an agreement about the bill, and so far as I was concerned we were going to condone, not agree to but condone, past transactions. I told him we were going to stop the precedent for the future and did not want any time; that the majority members of the committee would not oppose my amendment. We told him to just go ahead and adopt the rule; that I would vote for it. If I had known then what I know now we would have certainly opposed the rule. I did not say a word about the rule, believing the agreement would be carried out. The acting chairman of the Committee on Banking and Currency got up on this floor yesterday and said substantially what I am saying now about the agreement.

Mr. REILLY. Speaking for himself.

Mr. PATMAN. I do not know whom he was speaking for, but I understood he was speaking for the majority members of the committee; he told me he had consulted them. When this bill was up before, you said you were voting for it in order that you would not break faith with the chairman of the Reconstruction Finance Corporation, who had made these contracts in good faith. If you are willing to vote for it to keep from breaking faith with Mr. Jones, why do you not vote for my amendment in order to carry out the chairman's agreement? I am going to offer an amendment which will mean, if the amendment is adopted, that the R. F. C. will not be out any money for taxes on past transactions. As much as I dislike to do it, I have yielded on that. I have yielded on principle. I am not going back on my word, and I will never go back on any trade I make. [Applause.]

TAXES PAYABLE ON FUTURE TRANSACTIONS

The R. F. C. will not be out any money, if my amendments are adopted in accordance with what I thought the agreement was. It means, however, that in the future a bank that wants money from the R. F. C. will pay 3½ percent, the uniform rate in existence all over this country. It means, in addition, that the R. F. C. will tell them: "You will have to pay, yourselves, the local taxes as heretofore." It is right that they pay these taxes. The directors of the Reconstruction Finance Corporation did not oppose that view and, as a matter of fact, I believe they are in favor of it.

They appeared before this committee and asked for an amendment that would have permitted them to do just that, but the committee turned down their proposal last Saturday. The acting chairman of the committee called Mr. Jesse Jones who had left here for a much-needed rest in Miami, Fla., and asked him about the amendment which I expected to offer today. Mr. Jones, according to the acting chairman, stated it was perfectly all right with him. He wants it and needs it.

Now, then, you praise Mr. Jones, and he is entitled to be praised. You say we should follow him. You say we should follow the administration. I say the administration wants this bill, but the administration is not opposed to my amendment. Therefore, adopt the amendment and then adopt the bill as amended.

The gentleman from Missouri and the gentleman from Alabama contend that the R. F. C. should not be taxed because the Federal land-bank securities and other similar securities are not taxed. I agree generally with that contention, except where taxable property is taken away from the local communities. We will not require them to pay these back taxes, but in the future we are not going to allow them to make contracts that will permit local property for private gain to escape taxation. That is what we do not like.

FIRST MISTAKE MADE BY COMMITTEE

Let me tell you the difference. Here is a case where the Banking and Currency Committee brought in a bill. I was generous with them yesterday. I thought they were going to carry out their agreement with me. I said at that time that the House had made a mistake. I want to change that. The first mistake was made by this very committee. They brought in a bill that denied the R. F. C. the right to purchase debentures and notes from national banks. If they had made the law uniform, as it should have been made, and any person who is informed on the subject now admits it should have been made that way, this question would not have risen. But they fixed it so the R. F. C. had to buy preferred stock from the national banks and notes and debentures from State banks. This created an inequality, and I will show you just what that inequality is.

A State bank with a million-dollar capital sells a $500,000 debenture to the R. F. C. The R. F. C. does not pay a tax on that, and it should not pay a tax. It would be wrong to make them pay a tax on it. But the State bank continues to pay a tax locally, as heretofore, because it pays on its capital stock as the basis in 31 States of the country. The national bank with a million dollar capital stock should be permitted to sell debentures like the State banks. Then they would be on the same plane. But the committee, by this bill, requires them to sell the preferred stock, which is a part of the capital structure, and when the preferred stock is sold they plead tax exemption. If you vote for this bill you will vote to condone and encourage that principle, which is the one I am against. I am not in favor of taxing debentures and notes. No. Taxable property is not taken from the local tax rolls when the R. F. C. purchases debentures, but taxable property is taken from the local tax rolls when preferred stock is purchased.

WHERE WILL EXEMPTIONS STOP?

Mr. Chairman, if the Members carry this to its logical conclusion, if we pass this bill, the next bill to be brought in will be one exempting the insurance companies' capital structure to the extent that they have sold securities to the R. F. C. If you are consistent you will have to vote for that bill. The next bill will be one for the farmer who has a $5,000 loan against half of his farm. It is a $10,000 farm. He will come in and say: "The Government holds a security against half of my property. I am not arguing that you should tax the Government, but you should keep the local tax assessor off me. You do it for the bankers, why do you not do it for the farmers?"

The next contention that will come in will be from the home owners. They will come in and say: "The Government holds a lien equal to half the value of my home. I want you to keep the tax collector off me. He is trying to make me pay according to full face value. When the R. F. C. purchased half the taxable property of a national bank you voted for a bill to give such banks a 50-percent tax reduction in all States, counties, cities, and so forth, because the R. F. C. is a governmental institution. Since the lien on my home, equal to 50 percent of its value, is held by a governmental institution, you should pass a law giving me a 50-percent tax reduction in all States, counties, cities, and so forth."

What would be your answer?

Well, if you are consistent, if you vote for this bill to allow the national banks a 50-percent reduction, when you have taken half of their capital structure, you will vote to exempt half of the homes and farms of the country in a situation such as I have described.

I will admit, Mr. Chairman, that there will still be a discrimination here if this amendment passes, but the discrimination will not be near so much and we will be establishing the policy for the future that we are not going to exempt property from taxation in the local communities because some Federal agency happens to hold a lien on it, or acquires all or part of it.

WILL RAILROADS BE EXEMPT?

Where is this going? When the R. F. C. takes over a railroad, say two or half a dozen of them, are you going to come in and ask for tax exemption on them? If you are consistent and vote for this bill you will do it.

WILL BANKS AND INSURANCE COMPANIES BE EXEMPT?

What are you going to do when the R. F. C. takes over some banks and insurance companies? Are you going to bring a bill in here to make them tax exempt? If you vote for this bill you will have to, because you would not be consistent unless you did.

UNFAIR DIVISION OF TIME

Now, there is very little difference here, Mr. Chairman, between the ones opposing and proposing this legislation, since I am carrying out my part of the agreement. We have not had ample time to discuss it. I had 10 minutes yielded to me the other day by the chairman of the committee and then he asked me almost enough questions to take up the 10 minutes. I could not refuse to yield to him, because I was expecting him to yield me some more time. Then, he yielded me 10 minutes and that was taken up and then 5 minutes and then 2 minutes. We have only had 37 minutes out of the 240 minutes of general debate time. That is not a fair division.

COMMITTEE DID NOT BRING OUT ALL THE FACTS

I went before the Banking and Currency Committee for 3 days. They put me on first. That was all right. I did not mind that—I was glad to testify first, although it is customary to use the proponents first. I stayed there 3 days trying to get these differences ironed out. At one time the committee was not bringing out all the information from Mr. Jones. The members of the committee are all opposed to me on this bill and I wrote the chairman of the committee a letter, carried it to him myself, asking him to let me interrogate Mr. Jones, so I could bring out the very points I am bringing out here today. This request was refused. I was a Member of the House and I was the only Member of the House who was sitting there that had the opposite side, but I was refused the right to ask any witness before that committee any question.

PROPERTY USED FOR PRIVATE PROFIT SHOULD NOT BE EXEMPT FROM TAXATION

When this bill was up here before very little time was granted to the opponents. Notwithstanding that the Members of the House voted with us and the bill was killed. It is back here now a second time. I do hope, Mr. Chairman, you will concede this point and that you will vote for this amendment that will establish the policy for this Government—and that is what the amendment will do—that in the future when Government boards and bureaus and commissions purchase a part of the capital structure of a private corporation that is organized and operating for private profit, the Government will not exempt such property from local taxation.

This is the policy I want you to establish and this is the policy I believe the Members of this House would like to have established.

[Here the gavel fell.]

Mr. GIFFORD. Mr. Chairman, I rise in opposition to the pro-forma amendment.

Mr. Chairman, the entire committee is favorable to this bill, Republicans and Democrats alike. I yielded my time this afternoon so that the opposition might have plenty of time, but there are one or two things about this measure to which I wish to call attention.

On page 2, "dividends or interest derived therefrom by the Reconstruction Finance Corporation shall not, so long as the Reconstruction Finance Corporation owns them, be subject to taxation." Even if you pass this bill, when are you going to get the Reconstruction Finance Corporation out of this business? By the passage of this bill, if it cannot sell them, it will have to hold them for 20 years, reducing them 5 percent a year. Some of us would like to go further and get it out of business and get this stock back into the hands of private people. What harm can it do if these shares are exempt? All other Government securities are exempt. But the Chairman of the Reconstruction Finance Corporation, in order to save this $5,000,000, was ready to accept an amendment which the gentleman from Texas intended to offer. He said, in effect: "You will not catch me issuing any more preferred stock. We will issue capital notes in the national banks. We will take their capital notes, and so long as the situs of the capital notes is in Washington we will not have to pay any tax." But the Texas people apparently say, "Yes; but when those capital notes are found in the State of Texas then we can get them at our regular rate." Is it a good idea to buy capital notes?

The Chairman of the Reconstruction Finance Corporation knows he cannot dispose of the preferred stock. It is a matter of record; and would have to pay taxes. But he might later sell capital notes, because the public at large might not know you have them in your possession. It might bootleg them in the States the same as other securities are bootlegged. So, the Chairman is willing to take a great chance, because he might get out of business sometime. I, for one, want to get him out anyway. If you take a chance and buy capital notes and can fool the assessor, all well and good.

These gentlemen are making a hard fight for the treasury of the State of Texas. In this I find myself not too sympathetic. They got $220,000,000 from the Government for their treasury last year and contributed only $77,000,000. In my State we contributed $114,000,000 and received only $77,000,000. My sympathy for your treasury, sir, is somewhat dampened although this is a wonderful fight you are making for a little more money for Texas. [Laughter.]

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. GIFFORD] has expired.

Mr. PATMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PATMAN: On page 2, in line 4, after the word "acquired", strike out the words "or hereafter."

Mr. PATMAN. Mr. Chairman, I hope the gentleman from Massachusetts [Mr. GIFFORD] listens to me, because if all of his statement was as incorrect as one part of it that I know was incorrect, his statement should not have much effect on this Committee. The gentleman stated that when a citizen purchased capital notes and debentures the State would cause it to be taxed. Of course, if a bank purchased it, it will not be taxed, and they do not tax it in the hands of individuals in Texas. Therefore the gentleman is entirely mistaken about what he said.

SURPRISE PLEADED BY COMMITTEE

The gentleman from Wisconsin [Mr. REILLY] said they were surprised when the bill came in the first time, on February 25; that they did not know there was any opposition to it. Why would the gentleman lead you to believe that? I do not know; but it is a well-known fact, and I certify to it now, that I went before the Committee on Rules and I opposed a rule on the bill before. I opposed the granting of a rule on February 24, 1936. I gave the reasons then that I have consistently given since that time. The next day the bill was brought in, and certainly they could not plead surprise.

SACRIFICE OF VIEWS

Now, because I agree to yield on a principle if they will yield on a principle I am accused of being inconsistent. I recognize the fact that there is no major piece of legislation that becomes a law unless it represents a compromise of view or a sacrifice of opinion on the part of practically every Member of the House and Senate. I was willing to sacrifice my views if they would sacrifice some views. I sacrificed certain views. They agreed to sacrifice certain views. I carried out my agreement and they are not carrying out their agreement.

Mr. CROSS of Texas. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I am talking about the gentleman from Maryland [Mr. GOLDSBOROUGH].

Mr. CROSS of Texas. The gentleman is not quoting us?

Mr. PATMAN. I am quoting him. He said it substantially himself. I am quoting what he said. The gentleman from Texas was here and heard him. At 12 o'clock yesterday he was to let me know. I came here at 12 o'clock yesterday, and he said he had consulted with the majority members of this committee and it was perfectly all right—to go ahead. I acted on that agreement.

Now, who is in favor of this amendment which I have offered? The Reconstruction Finance Corporation is in favor of it. They say it is all right. Why should we oppose it? What will it do? Nothing on earth except establish a policy for the Government in the future against the taking of taxable wealth from local communities at a time when local communities need all the taxable wealth they can get in order to raise their share of the money under the Social Security Act that we passed.

BANKERS' BONUS BILL

Do you want to adopt a policy here which is for the bankers? Now, from here on out it is a bankers' bonus bill. You can say anything you want to, but from here on out it is a bankers' bonus. I am talking about the future. We can dismiss the past for the present. Mr. Jones said he is ready to disburse $100,000,000. He says that if this amendment passes he will be allowed to purchase the stock and the stock will pay local taxes as heretofore. They, the banks, will get their money at 3½ percent interest and will continue to pay local taxes as heretofore. So if you vote against this amendment, you are voting to save those banks who get this $100,000,000 at least $2,500,000 that they would have to pay in local taxes. This is a clear bonus for these banks; it is a subsidy, or whatever you want to call it. A vote against this amendment is a vote to give those banks who get this $100,000,000 at least $2,500,000. They are not expecting it, they are not entitled to it, and the R. F. C. ought not to be allowed to permit them to escape local taxes. [Applause.]

Mr. Chairman, I ask that the amendment be adopted.

[Here the gavel fell.]

Mr. HOLLISTER. Mr. Chairman, I ask recognition in opposition to the amendment.

The CHAIRMAN. All time on the amendment has expired.

Mr. HOLLISTER. Mr. Chairman, I move to strike out the last word.

Mr. PATMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PATMAN. Had not all time on the amendment expired?

The CHAIRMAN. All time on the amendment has expired, but the gentleman from Ohio moves to strike out the last word, which is another amendment.

The gentleman from Ohio is recognized for 5 minutes.

Mr. HOLLISTER. Mr. Chairman, it is very interesting to watch the somewhat devious gyrations of the opponents of this bill. They have been inconsistent from the very beginning. They discuss the bill from the point of view of discrimination at one time and ask that the bill be defeated on that ground. They ask that it be defeated another time on the ground that it exempts securities from taxation. The same gentleman gives absolutely contradictory reasons for having the bill defeated. Now they are proposing exemptions from taxation to apply to stock already held by the Reconstruction Finance Corporation, saying that is satisfactory, but with respect to any bank which hereafter wishes assistance from the Reconstruction Finance Corporation they say the same thing shall not apply. It is really a little bit difficult to answer so many absolutely inconsistent objections.

May I point out what the gentleman from Texas said when he appeared before the committee at the time he was discussing the bill in general? He said:

It is a bad precedent. It creates discrimination.

A little later he stated:

It will create a dozen discriminations. They are treated differently by the taxing authorities. Instead of this bill removing discriminations it creates discriminations.

I wonder if the Members of the House realize that if the amendment sponsored by the gentleman is passed there will be 31 different discriminations in this law? If the gentleman's amendment is adopted all stock now held by the Reconstruction Finance Corporation will carry 3½ percent dividends. After the present time manifestly it will be necessary for the Reconstruction Finance Corporation to add on to the dividend rate enough to satisfy the tax of the particular State. If the Members who have at hand the hearings will turn to page 48, they will see the different States affected, 31 of them. Some of them are assessed on a 100-percent ad valorem basis; some 90 percent, and so on down, and practically every one of them at a different rate of tax. In other words, in order to fit this thing in exactly so that the dividend rate will be enough to satisfy the tax, there will be 31 different kinds of preferred stock contracts which the Reconstruction Finance Corporation will have to make.

Mr. Chairman, it will also mean that whereas a bank in one city may be fixed up already by the Reconstruction Finance Corporation and will pay only 3½ percent, a bank in another city may have to pay 5 or 6 percent, whatever it may be, to satisfy the tax in order to get the relief that the Reconstruction Finance Corporation is now giving to hundreds of banks and perhaps even thousands of banks throughout the country.

Here is a gentleman who tries to defeat this bill on the ground of discrimination coming in and asking us to adopt an amendment that will put 31 different discriminations into the act.

Mr. PATMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the pro-forma amendment.

Mr. HANCOCK of North Carolina. Mr. Chairman, I move to strike out the last two words.

Mr. DIRKSEN. Mr. Chairman, I move to strike out the last two words.

Mr. PATMAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. PATMAN. Mr. Chairman, I make the point of order that it is my amendment which the gentleman who has just spoken is endeavoring to destroy. He has made a 5-minute speech on behalf of an amendment which will destroy it, and I ask for recognition in order to answer the gentleman's argument.

The CHAIRMAN. The gentleman has been recognized and has presented an argument in favor of his amendment. The point of order is overruled.

Mr. DIRKSEN. Mr. Chairman, I rise in opposition to the pro-forma amendment.

The CHAIRMAN. The gentleman from Illinois, a member of the committee, rises in opposition to the pro-forma amendment, and is recognized for 5 minutes.

Mr. REILLY. Mr. Chairman, I move that all debate on this section and all amendments thereto close in 15 minutes.

The motion was agreed to.

Mr. DIRKSEN. Mr. Chairman, I do not expect to consume the entire 5 minutes, but I do want to point out that while the great financier and philosopher from Texas is one of the most lovable "cusses" I have ever seen, yet his ideas are almost as vagarious as the floodwaters we are reading about at the present time. These days they run swift, deep, and turbulent; some days they peter out to a mere trickle. His principles and convictions are a good deal like that. He appeared before the committee on March 11, when the meeting was called at his request, and in a colloquy with the gentleman from Maryland [Mr. GOLDSBOROUGH] the gentleman from Maryland said: "You are coming here to destroy legislation." The gentleman from Texas stated: "That is a mere incidental." He stated further: "The principle involved is greater than that, my dear sir."

He referred to the principle involved. He is reasoning from a principle. How strange it is that he is willing to condone, as he says, a principle. He says in effect this: "The R. F. C. has now subscribed to $229,000,000 of preferred stock that is taxable." He says:

> I am willing to condone that. I am willing to forgive the derelictions and the delinquencies of the committee, even though they do not agree with me, if they will share my view that from here on out on the other $100,000,000 that may be committed by the R. F. C., we will take away the exemption and impose the tax.

He is willing today to sacrifice two-thirds of his principle. When he appeared before the Banking Committee on March 11 he contended for the entire principle. It shows that, after all, his convictions do not run very deep, and today he is willing to chuck two-thirds of his principle out of the window.

This shows to what extent we ought to follow his persuasive eloquence in respect of this matter.

The amendment which he offers contains the two words "or hereafter." He is willing to say, "I will forget all about the $229,000,000 if you will impose the tax on the other $100,000,000 that the R. F. C. in the future may commit." What kind of legislation would this be? How can we justify it from the standpoint of consistency to say to the R. F. C., having subscribed $229,000,000, we will exempt all preferred stock so far as that is concerned, but in the future the tax must be paid and there shall be no exemption. Frankly, we must vote against that kind of thing if we are going to preserve any kind of consistency in the matter of banking legislation, and I admonish the House to vote the amendment down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. PATMAN].

The question was taken; and on a division (demanded by Mr. PATMAN) there were—ayes 27, noes 129.

So the amendment was rejected.

Mr. PATMAN. Mr. Chairman, I offer an amendment to section 1.

The Clerk read as follows:

> Amendment offered by Mr. PATMAN: Page 2, line 12, after the period, insert: "*Provided, however,* That in the future national banks that sell preferred stock to the R. F. C. shall be placed in the same position with reference to the payment of all taxes as a State bank that sells debentures instead of preferred stock to the R. F. C."

TREAT STATE AND NATIONAL BANKS ALIKE

Mr. PATMAN. Mr. Chairman, this amendment will affect future contracts to this extent, that the R. F. C. in making a contract with a national bank will leave that national bank in exactly the same position with reference to local taxation that the State bank across the street is in, and this is all it does.

I do not see how anyone can oppose this amendment. It is simply telling the R. F. C. not to make any contract that will place a State bank at a disadvantage with its competitor across the street. I do not think any member of the committee should oppose this amendment, because it is absolutely fair and right.

A few moments ago the gentleman from Ohio [Mr. HOLLISTER] made the statement that my other amendment would create 31 discriminations. If that method of arriving at the number of discriminations, due to the fact there are 31 States using this method of taxation, is correct, the present law that the gentleman wants us to vote for creates 93 different discriminations, because it discriminates against the State bank and the national bank that has half of its stock sold to the R. F. C. and gets a 50-percent reduction. This is a discrimination against a State bank that has the same capital and is getting the same amount of money from the R. F. C. This will account for 62 discriminations.

Mr. SNELL. Mr. Chairman, will the gentleman yield for a question?

Mr. PATMAN. I yield.

Mr. SNELL. Do I understand that the gentleman's amendment means that the R. F. C. will sell to national banks debentures instead of preferred stock?

Mr. PATMAN. It means that any contract that is made with a national bank will leave the national bank with reference to local taxation in the same position that a State bank would be in under similar and like circumstances, getting the same amount of money from the R. F. C.

Mr. SNELL. I understood from the reading of the amendment it provided for the selling of debentures.

Mr. PATMAN. In effect that would be it.

Mr. SNELL. A debenture would be ahead of stock as a security.

Mr. PATMAN. We are talking about taxation, I will say to the gentleman from New York, and we are considering it just from the taxation standpoint, and it would not be taxable.

Mr. SNELL. A debenture is nothing more or less than a note of the bank.

Mr. PATMAN. Yes.

Mr. SNELL. So the note would have preference over stock.

Mr. PATMAN. Just like in a State bank, exactly.

Mr. SNELL. As I understand, the theory of this whole proposition has been to put out more capital in order to make the capital structure stronger.

Mr. PATMAN. They will get the new capital.

Mr. SNELL. A debenture is not capital.

Mr. PATMAN. Please do not take up all my time.

The point is this. There is discrimination against the State bank, there is discrimination against the national bank that has not borrewed from the R. F. C.; and if this bill passes, the individual citizen, who holds preferred stock in that same institution, will get enough money from the local bank to pay local taxes, but the R. F. C. will not be required to pay local taxes and the banks will not be required to pay local taxes. Therefore it is a discrimination against the individual holders of preferred stock in 31 States who have part of the same stock that the R. F. C. holds. So, if my amendment created 31 discriminations, there is in existing law today more than 93 discriminations.

I hope this amendment, which is just to put them all on the same plane, will certainly be adopted.

Mr. HANCOCK of North Carolina. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas.

Mr. Chairman and Members of the Committee, without intending to be disrespectful in the least, I want to say that

this is not a clarifying amendment nor a perfecting amendment, but purely another confusing amendment designed, in my opinion, to confound the true issue and further delay the passage of this meritorious measure. As a matter of fact, it is identical in effect to the amendment which we have just voted down by a vote of 129 to 27. Let us coolly and dispassionately consider the situation as it now exists with respect to the taxation of the securities held by the R. F. C. As has been pointed out quite clearly by several members of the committee today, the preferred stock, notes, and debentures of State banks issued to the R. F. C. are not taxable. Under the law, national banks are permitted to issue preferred stock only. Under the decision of the Supreme Court in the Baltimore bank case, the preferred stock was declared to be taxable because of section 5219 of the Revised Statutes which was enacted in 1864. Therefore, if you pass this bill you eliminate the only discrimination that can possibly exist with respect to the taxation of any security issued by State or national banks to the R. F. C. You place them all on an equality. This is surely but right and just and carries out the purpose and intent of the Congress as expressed in section X of the Reconstruction Finance Act. Under the present order of things, the preferred stock of national banks is the only security that could be taxed, and with its elimination the securities of all banks issued to the R. F. C., as I have just stated, are placed upon the same basis.

My friend from Texas has tried in many ingenious ways to show that he has been discriminated against with respect to time. The record will show that the committee has been absolutely fair to him, both in its hearings and in its handling of the bill on the floor. As a matter of fact, he has done more talking in both places than any member of the committee. His reference to the committee keeping its agreement is beside the point, for the statement of Mr. GOLDSBOROUGH, the acting chairman, clearly shows that he was speaking alone for himself in his remarks yesterday. My friend from Texas has made a desperate struggle to get some concession on this bill which would take him "off the limb." I would, of course, like to see him get off, but I would not think of sacrificing a belief, much less a principle, to arrange it. What arrangements or negotiations he may have had with the chairman or with Mr. Jones has nothing to do with the position of the committee. At the same time, I am sure that the efforts which he has made privately to bring about a conciliation of differences have been made in good faith; but no member of the committee here today has ever agreed privately to any of his proposals. Any further discussion of his amendment is, in my opinion, time thrown away, and I ask you to vote it down. We can then make progress toward putting the bill on its final passage. [Applause.]

The CHAIRMAN. The question recurs on the amendment proposed by the gentleman from Texas [Mr. PATMAN].

The question was taken, and the amendment was rejected.

Mr. PATMAN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 2, line 12, after the period, insert the following: "Notwithstanding any other provision of law, any national banking association may, with the approval of the Comptroller of the Currency, pursuant to action taken by its board of directors, issue to the Reconstruction Finance Corporation its capital notes or debentures in such amounts and with such maturities as the Comptroller of the Currency may approve. The holders of such capital notes or debentures shall be entitled to receive such interest, at a rate not exceeding 6 percent per annum of the principal amount thereof, and shall have such conversion rights, priorities, control of management, and other rights, and such capital notes or debentures shall be subject to retirement or redemption in such manner and upon such conditions as may be provided therein with the approval of the Comptroller of the Currency."

Mr. HOLLISTER. Mr. Chairman, I make a point of order on the amendment. The bill before the House is a bill relating to the taxation of shares of preferred stock, capital notes, and debentures of banks owned by the Reconstruction Finance Corporation. It is an amendment to the Emergency Banking Act of 1933, as clearly appears from the bill, being an amendment to section 304. The amendment offered by the gentleman from Texas is not an amendment to the Emergency Banking Act of 1933. It has nothing to do with the taxation of preferred stock, capital notes, or debentures owned by the Reconstruction Finance Corporation, but is an amendment to the general banking laws of the United States and permits national banks, as they never have been permitted in the past, to issue notes and debentures in addition to capital stock. It is not an amendment to the same act, and it is not germane to the subject matter of the bill before us.

Mr. PATMAN. Mr. Chairman, I desire to be heard on the point of order. The amendment I offer is an amendment proposed to this bill and deals with the subject matter that the bill deals with. The bill deals with the issuance by banks and the purchasing by the Reconstruction Finance Corporation of preferred stock of national banks. It also deals with the issuance by State banks and the purchases by the R. F. C. of notes and debentures of State banks. My amendment deals with that subject matter and provides that hereafter in dealing with the problem we are now dealing with, the R. F. C. will be permitted, if it desires, to accept from national banks the same kind of securities, notes, and debentures that the R. F. C. is now privileged to accept from State banks and trust companies. I think it is germane.

The CHAIRMAN. The Chair is prepared to rule. The amendment proposed by the gentleman from Texas is an amendment to section 1 of the bill. This section deals with the matter of exemptions from taxation. The amendment proposed by the gentleman from Texas deals with the issuance of debentures and notes. The Chair sustains the point of order.

Mr. PATMAN. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. PATMAN: Page 2, line 12, after the period, insert the following: *"Provided, however,* That in all future purchases of preferred stock from a national bank by the Reconstruction Finance Corporation, the Reconstruction Finance Corporation may require the bank to pay local taxes in the same way and manner that it would be required to pay, were the stock not purchased by the Reconstruction Finance Corporation.

Mr. PATMAN. Mr. Chairman, I ask for recognition on that.

Mr. WOLCOTT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman from Michigan will state his point of order; and, so far as the matter of recognition is concerned, debate upon the section is exhausted.

Mr. WOLCOTT. Mr. Chairman, I make the point of order that the amendment is not germane to the section in that it provides a manner under which the R. F. C. may purchase the holdings of banks and has no relationship whatsoever to the question which is before the House, namely, the taxation of shares of stock of banks owned by the Reconstruction Finance Corporation.

Mr. PATMAN. Mr. Chairman, I desire to be heard on the point of order. The amendment gives the R. F. C. discretion. It uses the word "may." The R. F. C. may require that. That is, in a case where the bank is already paying large salaries to officers and directors, it is in a position and able to pay local taxes. The R. F. C. will have the discretion, if the bank is able to pay local taxes, to require the bank to pay them. The bank is getting this money for 3½ percent. The amendment merely grants the discretion to the R. F. C. There is nothing else to it.

The CHAIRMAN. The section under consideration deals with the matter of tax exemptions. The amendment offered by the gentleman from Texas undertakes to give the Reconstruction Finance Corporation discretion to require that local banks may be taxed by local authorities. The Chair is constrained to believe it is not germane, and sustains the point of order.

The Clerk will read.

The Clerk read as follows:

SEC. 2. Effective upon the date of enactment of this act, interest charges on all loans by the Reconstruction Finance Corporation to closed banks and trust companies, now in force, or made subsequent to the date of enactment of this act, shall not exceed 3½ percent per annum: *Provided, however,* That no provision of

this act shall be construed to authorize a reduction in the rate of interest on such loans by the Reconstruction Finance Corporation retroactive from the date of enactment of this act.

With the following committee amendment:

Strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. That, effective upon and from the date of enactment of this act, interest on all outstanding loans by the Reconstruction Finance Corporation to receivers and liquidating agents of closed banks and trust companies, and all such loans made subsequent to the date of enactment of this act, shall be at the rate of 3½ percent per annum on condition that the rate of interest charged debtors of such banks or trust companies shall not exceed 4½ percent per annum; otherwise such interest rate shall be as fixed by the Reconstruction Finance Corporation."

Mr. BROWN of Michigan. Mr. Chairman, I ask unanimous consent to withdraw the committee amendment to section 2.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent to withdraw the committee amendment. Is there objection?

There was no objection.

Mr. BROWN of Michigan. Mr. Chairman, I offer the following as a committee substitute for section 2, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Michigan for the committee: Strike out section 2 and insert in lieu thereof:

"SEC. 2. Effective upon the date of enactment of this act interest charges on all loans by the Reconstruction Finance Corporation to closed banks and trust companies, now in force or made subsequent to the date of enactment of this act, shall not exceed 3½ percent per annum, on condition that the rate of interest charged debtors of such banks or trust companies shall not exceed 4½ percent per annum. Otherwise such interest rates shall be as fixed by the Reconstruction Finance Corporation: *Provided, however,* That no provision of this act shall be construed to authorize a reduction in the rate of interest on such loans by the Reconstruction Finance Corporation retroactive from the date of enactment of this act."

Mr. BROWN of Michigan. Mr. Chairman, the only purpose of section 2 is to provide that hereafter, from the effective date of this act, the interest rates charged by the Reconstruction Finance Corporation to insolvent banks shall not exceed 3½ percent interest per annum, upon condition that the receiver of such insolvent National or State bank shall reduce the interest that he charges the debtors of that bank, down to 4½ percent.

The language of the committee amendment has the same meaning as the language in section 2 of the bill before you, but this change will expedite the enactment of this bill into law because of the parliamentary situation.

Mr. SNELL. Mr. Chairman, will the gentleman yield for a question?

Mr. BROWN of Michigan. I yield.

Mr. SNELL. What will be the cost to the Reconstruction Finance Corporation by adopting this amendment?

Mr. BROWN of Michigan. The Reconstruction Finance Corporation at the present time is borrowing its money at about 2¾ percent. Under this bill they would loan to closed banks at not to exceed 3½ percent.

Mr. SNELL. I did not make myself clear, apparently. They are loaning for more than that at the present time, are they not?

Mr. BROWN of Michigan. Yes.

Mr. SNELL. How much will their income be reduced as a result of this?

Mr. BROWN of Michigan. The only answer I can give the gentleman is that the rate charged closed banks is 4 percent at the present time, and this will reduce it one-half of 1 percent. I cannot tell the gentleman what the amount is in dollars and cents.

Mr. SNELL. But the purpose of this original bill was to make money for the Reconstruction Finance Corporation. I think you are going to lose almost as much from this reduction of interest.

Mr. BROWN of Michigan. The gentleman understands this applies only to closed banks.

Mr. SNELL. But how many hundred millions have they loaned to closed banks?

Mr. BROWN of Michigan. I cannot tell the gentleman. I can assure him this reduction will not materially affect the R. F. C. and will greatly aid distressed debtors and depositors.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield.

Mr. WHITE. What will happen to the Reconstruction Finance Corporation if the market goes so that there is a higher rate of interest for Government securities?

Mr. BROWN of Michigan. I think we would have to change the statute, but we do not expect that condition to arise.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. PATMAN) there were—ayes 136, noes 20.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 3. If any provision, word, or phrase of this act, or the application thereof to any condition or circumstance, is held invalid, the remainder of the act, and the application of this act to other conditions or circumstances, shall not be affected thereby.

The CHAIRMAN. Under the rule the Committee will rise.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. WHITTINGTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation, and reaffirming their immunity, pursuant to House Resolution No. 451, he reported the same back to the House with an amendment adopted in Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. BOILEAU) there were ayes 172 and noes 87.

Mr. O'MALLEY. Mr. Speaker, I demand the yeas and nays.

Mr. WHITE. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 218, nays 144, not voting 68, as follows:

[Roll No. 41]

YEAS—218

Allen	Church	Dickstein	Frey
Andrew, Mass.	Citron	Dies	Fuller
Arends	Clark, N. C.	Dietrich	Gasque
Bankhead	Cochran	Dingell	Gassaway
Barden	Coffee	Dirksen	Gavagan
Barry	Colden	Disney	Gifford
Beam	Cole, N. Y.	Dobbins	Gingery
Beiter	Collins	Dockweiler	Granfield
Bell	Connery	Dondero	Greenwood
Biermann	Cooley	Dorsey	Greever
Bland	Cooper, Ohio	Doughton	Gregory
Bloom	Cooper, Tenn.	Drewry	Haines
Boehne	Costello	Driscoll	Halleck
Boland	Cox	Driver	Hamlin
Boykin	Crosby	Duffy, N. Y.	Hancock, N. Y.
Boylan	Cross, Tex.	Duncan	Hancock, N. C.
Brown, Ga.	Crosser, Ohio	Eckert	Harlan
Brown, Mich.	Crowe	Edmiston	Hart
Buchanan	Crowther	Eicher	Harter
Buck	Culkin	Ellenbogen	Healey
Burnham	Cullen	Faddis	Hess
Caldwell	Cummings	Farley	Hill, Ala.
Carmichael	Curley	Ferguson	Hollister
Cary	Daly	Fernandez	Holmes
Celler	Darden	Fitzpatrick	Huddleston
Chandler	Deen	Flannagan	Imhoff
Chapman	Delaney	Ford, Calif.	Jenckes, Ind.

Johnson, Tex.	Martin, Colo.	Plumley	Snyder, Pa.
Kahn	Mason	Quinn	Spence
Keller	Massingale	Rabaut	Starnes
Kelly	Maverick	Ramsay	Stewart
Kennedy, N. Y.	May	Ramspeck	Sullivan
Kenney	Mead	Randolph	Sumners, Tex.
Kerr	Meeks	Rayburn	Taylor, Colo.
Kleberg	Merritt, Conn.	Reece	Taylor, Tenn.
Kloeb	Merritt, N. Y.	Reed, N. Y.	Terry
Kocialkowski	Millard	Reilly	Thom
Kopplemann	Miller	Richards	Thomason
Kramer	Mitchell, Ill.	Richardson	Thompson
Lanham	Montet	Risk	Vinson, Ga.
Lea, Calif.	Norton	Rogers, Mass.	Vinson, Ky.
Lehlbach	O'Brien	Rogers, N. H.	Wadsworth
Lesinski	O'Connell	Russell	Walter
Lewis, Colo.	O'Connor	Sabath	Warren
Lucas	O'Day	Sanders, Tex.	Welch
McAndrews	O'Leary	Sandlin	West
McClellan	O'Neal	Schaefer	Whelchel
McGehee	Owen	Schuetz	Whittington
McGrath	Parsons	Scott	Wilcox
McKeough	Patton	Sears	Williams
McLaughlin	Pearson	Seger	Wilson, La.
McLean	Peterson, Fla.	Sisson	Wolcott
McReynolds	Peterson, Ga.	Smith, Conn.	Zimmerman
Mahon	Peyser	Smith, Va.	
Maloney	Pfeifer	Smith, W. Va.	

NAYS—144

Amlie	Ford, Miss.	Lord	Ryan
Andresen	Fulmer	Luckey	Sadowski
Ashbrook	Gambrill	Ludlow	Sauthoff
Ayers	Gearhart	Lundeen	Schneider, Wis.
Bacharach	Gehrmann	McCormack	Schulte
Binderup	Gilchrist	McFarlane	Scrugham
Blackney	Gildea	McGroarty	Secrest
Blanton	Gillette	Maas	Shanley
Boileau	Goodwin	Main	Shannon
Brewster	Gray, Ind.	Mapes	Short
Buckler, Minn.	Gray, Pa.	Marcantonio	Smith, Wash.
Burdick	Green	Martin, Mass.	Snell
Cannon, Mo.	Greenway	Michener	South
Cannon, Wis.	Griswold	Mitchell, Tenn.	Stefan
Carlson	Guyer	Monaghan	Stubbs
Carpenter	Gwynne	Moran	Taber
Cartwright	Higgins, Conn.	Moritz	Tarver
Castellow	Higgins, Mass.	Mott	Thurston
Christianson	Hildebrandt	Murdock	Tobey
Cole, Md.	Hill, Knute	Nelson	Tolan
Colmer	Hoffman	Nichols	Treadway
Cravens	Hook	O'Malley	Turner
Crawford	Hope	Palmisano	Turpin
Creal	Houston	Patman	Umstead
Darrow	Hull	Patterson	Utterback
Ditter	Jacobsen	Pettengill	Wallgren
Doxey	Jenkins, Ohio	Pierce	Wearin
Duffey, Ohio	Johnson, Okla.	Pittenger	Weaver
Dunn, Miss.	Kinzer	Polk	Werner
Dunn, Pa.	Kniffin	Powers	White
Eaton	Knutson	Rankin	Wigglesworth
Ekwall	Kvale	Ransley	Wilson, Pa.
Engel	Lambertson	Reed, Ill.	Withrow
Fiesinger	Lambeth	Rich	Wolverton
Fletcher	Lamneck	Robinson, Utah	Woodruff
Focht	Lemke	Rogers, Okla.	Young

NOT VOTING—68

Adair	Dear	Kee	Rudd
Andrews, N. Y.	Dempsey	Kennedy, Md.	Sanders, La.
Bacon	DeRouen	Larrabee	Sirovich
Berlin	Doutrich	Lee, Okla.	Somers, N. Y.
Bolton	Eagle	Lewis, Md.	Stack
Brennan	Englebright	McLeod	Steagall
Brooks	Evans	McMillan	Sutphin
Buckbee	Fenerty	McSwain	Sweeney
Buckley, N. Y.	Fish	Mansfield	Taylor, S. C.
Bulwinkle	Goldsborough	Marshall	Thomas
Burch	Hartley	Montague	Tinkham
Carter	Hennings	Oliver	Tonry
Casey	Hill, Samuel B.	Parks	Underwood
Cavicchia	Hobbs	Perkins	Wolfenden
Claiborne	Hoeppel	Robertson	Wood
Clark, Idaho	Johnson, W. Va.	Robsion, Ky.	Woodrum
Corning	Jones	Romjue	Zioncheck

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. McMillan (for) with Mr. Robsion of Kentucky (against).
Mr. Clark of Idaho (for) with Mr. Hartley (against).
Mr. Claiborne (for) with Mr. Andrews of New York (against).
Mr. Adair (for) with Mr. Wolfenden (against).
Mr. Tonry (for) with Mr. Taylor of South Carolina (against).
Mr. Cavicchia (for) with Mr. Marshall (against).
Mr. Rudd (for) with Mr. Tinkham (against)
Mr. Evans (for) with Mr. Thomas (against).

Until further notice:

Mr. Woodrum with Mr. Bacon.
Mr. Robertson with Mr. Fish.
Mr. Steagall with Mr. Bolton.
Mr. Goldsborough with Mr. Englebright.
Mr. Oliver with Mr. McLeod.
Mr. Parks with Mr. Perkins.
Mr. Burch with Mr. Fenerty.
Mr. Samuel B. Hill with Mr. Carter.
Mr. Jones with Mr. Doutrich.
Mr. Mansfield with Mr. Buckbee.
Mr. Romjue with Mr. Brooks.
Mr. McSwain with Mr. Hennings.
Mr. Wood with Mr. Kee.
Mr. Eagle with Mr. Berlin.
Mr. Hobbs with Mr. Zioncheck.
Mr. Brennan with Mr. Casey.
Mr. Kennedy of Maryland with Mr. Sutphin.
Mr. Larrabee with Mr. Stack.
Mr. Montague with Mr. Buckley of New York.
Mr. Dempsey with Mr. Lee of Oklahoma.
Mr. Corning with Mr. Bulwinkle.
Mr. Johnson of West Virginia with Mr. Dear.
Mr. Lewis of Maryland of Mr. DeRouen.
Mr. Sweeney with Mr. Sirovich.
Mr. Somers of New York with Mr. Underwood.

The result of the vote was announced as above recorded.

On motion of Mr. REILLY, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. REILLY. Mr. Speaker, I understand that the Senate is waiting in session to take up consideration of the bill we have just passed. Time is of the essence in this matter. Ordinarily it would be necessary to have the House stay in session to receive the bill or a message from the Senate.

I offer the following resolution, Mr. Speaker, and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 455

Resolved, That notwithstanding the adjournment of the House, the Clerk of the House is hereby authorized to receive a message from the Senate and the Speaker be, and he is hereby, authorized to sign the enrolled bill (S. 3978) relating to taxation of shares of preferred stock, capital notes, and debentures of banks while owned by the Reconstruction Finance Corporation, and reaffirming their immunity, pursuant to House Resolution 451.

The SPEAKER. Is there objection to the consideration of the resolution?

There was no objection.

The resolution was agreed to.

On motion of Mr. REILLY, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

ORDER OF BUSINESS

Mr. BANKHEAD. Mr. Speaker, I ask unanimous consent to address the House for 1 minute to make an announcement.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BANKHEAD. Mr. Speaker, a good many Members have asked me what the program will be for tomorrow. The arrangement is that we will call up for consideration the rule on the so-called long- and short-haul bill, the Pettengill bill, from the Committee on Interstate and Foreign Commerce.

Mr. ELLENBOGEN. Mr. Speaker, will the gentleman yield?

Mr. BANKHEAD. I yield.

Mr. ELLENBOGEN. Some of the Members of the flood districts are very anxious to go back home over the week end. I hope no vote will be taken on the bill while we are away.

Mr. BANKHEAD. Mr. Speaker, I may state to the gentleman from Pennsylvania that I understand some 5 hours are provided for general debate, and I feel it very improbable that we shall reach a vote before next week.

CONSTITUTIONAL QUESTION WITH REGARD TO ROOSEVELT DEMOCRATIC ADMINISTRATION RECORD

Mr. HOOK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein an address I made over the radio at Detroit a short while ago.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOOK. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following address given by me over radio station WMBC, Detroit, Mich., recently:

We in America have heard much talk in the past half dozen years about the future of democracy as a form of government. The economic depression, which began in 1929, has brought such misery and distress that some are asking whether or not our whole social and political organization, which places the control of policy and of the administration of government in the hands of

the people, is not too slow and too cumbersome to meet the complicated situations of modern economic life. We have seen several nations in Europe in the past 10 years turn away from the democratic ideal, and there are groups in our own Nation who counsel us to discard democratic principles and ask us to follow the road to Fascist dictatorship or to communistic dictatorship.

I do not believe that American democracy is in danger. The people of our Nation are too firmly convinced of the values of popular participation in government to be misled into dictatorship of any form. It is true, however, that government is today a complicated business. Our Government is no longer merely an agent to provide law and order; government today is more than the policeman on the corner. Today our Government touches on our lives in hundreds of ways. We are asking today that our Government provide hundreds of services—that it aid us in the control of our economic system. So much does government do today that the business of government has become the largest business in the Nation.

Now the point I wish to make is this: That as government and the problems of government become more and more complicated in a democracy it becomes increasingly necessary that the people keep themselves informed on the issues of the day. This holds for State and local government as well as for national issues. The people of the United States must, if our democracy is to succeed, follow the work of their representatives in national and local legislatures. This Government rests on the principle that the people shall make the decisions as to choice of leadership and policies, and unless the people are informed—unless they know what the leaders stand for—unless they understand the meaning of policies and programs our Government will not function as it should.

It is because I feel that the people cannot exercise their right of voting intelligently unless they know what has been done by the party in power and what objections and counter proposals have been made by the opposing party that I will discuss one of the vital problems of the day.

We, the Democratic Party, have nothing to hide or conceal, and all that we ask is that the people of America consider calmly and dispassionately our record. I want, then, to lay some of that record before you.

We have passed the Social Security Act in the interest of humanity; we have passed agricultural legislation in the interest of the farmer; we have also passed the Wagner labor bill, the Railroad Retirement Act, the Guffey coal bill, the Tennessee Valley Authority, and many other laws in behalf of labor and agriculture.

The issue I wish to discuss with you is one which has presented itself to the American people within the past couple of years. This is the issue raised as to the constitutionality of certain items on the program of President Roosevelt and the Democratic Party. I do this because of criticism by certain reactionary elements, prominent among them being such organizations as the American Liberty League. The leaders of America 148 years ago, who had been in convention during the whole summer, finished their work and presented to the American people our Constitution. They were faced with political and economic problems comparable in gravity with those facing the leaders of our Nation today, and they had the vision to see what was desirable and to act.

The biggest problem which faced these men was the question of what powers should be given to the Federal Government and which powers should be reserved to the States. In the light of their experience they made their decision. Today in the United States we are again facing that question of how extensive the powers of the United States Government should be.

Let me explain the point by reference to the recent Supreme Court decisions—the decisions which declared unconstitutional the National Industrial Recovery Act, the Agricultural Adjustment Act, and others. With the technicalities of these decisions we did not bother ourselves. Generally the decisions meant that the National Government was exceeding its power when it attempted to control the problems of labor, agriculture, and industry. The Court arrived at these decisions on the basis of the argument that no power to exercise such control had been granted to the National Government by the men who made the Constitution 148 years ago. It is on this point that the question becomes a political issue. The Republican Party contends, I believe, that the division of powers as made 148 years ago should not be touched. They believe that the powers of the National Congress should not be increased—they believe that these powers are ample to meet the problems of today even though there is no national power to regulate industry and to control the conditions of labor. They tell us that the powers that were granted to the National Government 148 years ago should be interpreted strictly, even though this means that our Federal Government is prevented from acting in the field of national economic problems.

The Democratic Party, on the other hand, believes that the list of powers granted 148 years ago, if these powers are to be interpreted strictly, are not ample to permit the necessary control of industry and to permit the solution of the problems of agriculture and of labor.

Allow me to explain the issue a bit further. One hundred and forty-eight years ago the United States was a Nation of a few million people scattered along the Atlantic seacoast. These people were almost entirely engaged in agriculture. Each community lived pretty much to itself, having very little contact with the outside world. There were no problems of industry or of labor, because there was no factory system and little industry of any kind. Today, 148 years later, we are no longer strictly an agricultural Nation. We are a great industrial Nation spread over 3,000 miles of continent. Our communities are no longer independent, each going its own separate way. We are today one unit, and what affects one portion of our population affects all portions. Price levels in New York affect price levels in Kansas. Unemployment in Alabama affects wages in Michigan. The point is that what were local problems in 1787 and could be handled by local action are today national problems and demand national attention.

Can anyone deny that the problems of industry and of labor, of agriculture, of commerce, and of mining are national problems? It must be admitted by all that these are national problems, and it stands to reason that national action is necessary to their solution. Of course, there may be some that will contend that there are no problems of labor or of industry that need attention, but I submit that in the face of the millions of unemployed in this Nation, in the face of those thousands of men and women who have faced starvation during the past half dozen years, anyone who contends that no action is necessary is simply blind to the realities of our economic life. And allow me to reiterate that it is the position of the Democratic Party that provision must be made, whether by interpretation or by amendment, to allow the National Government to act.

It is only by national action that it is possible to work out a program of unemployment insurance or of old-age pensions. Only by national action can child labor and the sweatshop be eliminated. Only by national action can a system of retirement for the railroad workers be worked out. Only by national action can the laborers of America be protected in their right to organize. Only by national action can the farmers of our Nation be given anything like a just reward for their services. In general, let me say that only by national action can our social-economic system be made to operate in the interest of the common man.

Let me caution you that you will be told that the Democrats are wrecking the Constitution. You will be told that the Constitution must be protected at all costs. You must not be misled by such propaganda. The Democrats regard the Constitution as highly as do the Republicans. Ex-President Hoover, the hermit of Palo Alto, has no monopoly on the ability to appreciate the work of the men who made the Constitution or to understand the significance of what these men did. Do not let anyone tell you that the Constitution has never been changed. It has been changed in innumerable ways. It has been amended 21 times, and it is because the fathers of the Constitution foresaw the necessity for change that they made provision for the amendment of the Constitution.

To expand the powers of the National Government will not mean the discarding of the Constitution. These powers have been added to before. There was a time when the National Government could not levy an income tax because the Constitution gave it no power to do so. The Constitution was changed, it was amended to give that power, and I do not believe that any of us would want that power taken away today. This addition of power did not wreck the Constitution, and neither will the Constitution be wrecked if the National Government is given power to insure the worker and the farmer a square deal.

In a democracy the sovereign power rests with the people, and in the United States, if the people want to add to the powers of their National Government, they are free to do so. The Constitution was made for the people, not the people for the Constitution.

The issue is not whether we are going to discard the Constitution or not. The constitutional issue that you are going to decide is this: Do you want the National Government to have power to deal with the problems of industry, agriculture, labor, mining, and commerce, or do you not? It is really a question of whether you believe that the problems of unemployment, the problems of farm bankruptcy—all these problems that are bothering us today—are problems that need the attention of the National Government. You must decide that question first, and if you believe that these problems need national attention, then the solution of the constitutional question is easy. You will be willing to give the National Government power to solve the national problems.

I warn you not to be misled by the propaganda that would lead you to believe that the Democrats are destroying the Constitution. Really we are trying to save the Constitution. We are trying, my friends, to save the basic principles of the Constitution. The Constitution of the United States is founded on the implicit principle that this Nation shall be one of equal opportunity for all; that this shall be a Nation of people protected in their rights of free speech and a free press, and the right to worship as they please. Our Constitution was based on those principles stated in its preamble:

"We, the people of the United States, in order to establish a more perfect union, establish justice, insure domestic tranquillity, provide for the common welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

These are the principles upon which the program of the Democratic Party is based. These are principles that put human values and rights above the rights of property and wealth. And I suggest to you that the Republican Party, sponsoring as it does the rights of property and of wealth, is the party that would wreck the Constitution and destroy its basic principles. The Democratic Party has but one aim and one purpose—to make the United States a more secure place in which to live, to establish homes, and to bring up our children. This aim coincides with the very spirit of the Constitution. Our Republican friends may believe that it will destroy the Constitution to give economic security to the American people. I challenge them to prove their contention.

GROVER CLEVELAND

Mr. ELLENBOGEN. Mr. Speaker, I ask unanimous consent to extend my remarks and insert therein a speech on President Cleveland delivered by my colleague the gentleman from New York [Mr. CELLER].

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ELLENBOGEN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address by Representative EMANUEL CELLER, Democrat, of New York, over the Columbia Broadcasting System Tuesday, March 17, at 10:45 p. m., eastern standard time. Representative CELLER's address was in connection with a special program presented by the Grover Cleveland Memorial Committee. Mayor Fiorello LaGuardia, of New York City, and Gustavus A. Rogers, chairman of the committee, were the other speakers during the program. Representative CELLER spoke from the studios of WJSV, Columbia's station for the Nation's Capital:

Grover Cleveland held high office during a period that tried men's souls, when the furies churned by the Civil War were developing most dangerous sectional antagonisms, when the too excessive and rapid national expansion was causing intense class hatred. It took a man of rock-ribbed firmness and indomitable courage to hold in check these discordant social elements. Cleveland's honesty, fearlessness, and common sense saved the Nation in those troubled days—now called the Cleveland era.

General Bragg, at the Chicago convention that gave Cleveland his first nomination for the Presidency, stated: "They love him for the enemies he has made." That is the best and most telling epitome of his character. He was the avowed foe of unscrupulous money changers and grasping monopolists. To graft and political chicanery he never offered quarter.

It was his duty, as sheriff of Erie County, N. Y., to hang men condemned. That task had always been delegated to an underling. Not so—Cleveland. He would not ask another to do his job, especially one so hateful. Although sick at heart and mayhap quivering from head to foot, he attended to the hanging and sprang the trap himself. All his life he performed his obligations to the letter. He demanded no less from others. That is why he was disliked by dishonest Government contractors and by the money tycooms of his day, by selfish politicians who sought to prey upon the Nation.

He never failed to recognize his own shortcomings. In 1886, Harvard College celebrated its two hundred and fiftieth anniversary. Cleveland was invited to attend and receive an honorary degree. He hesitated to accept. He was told he would be simply following the usual practice of former Presidents when visiting Cambridge—even the unpolished Andrew Jackson, much to the disgust of John Quincy Adams, had not hesitated—but Cleveland said with becoming modesty that his education was meager. He could not mask as a man of letters. That would be deceitful. He felt he was not, therefore, a suitable candidate. Although he attended the anniversary and spoke, he declined the honorary degree.

Cleveland held most sacred the Jeffersonian guaranty of religious freedom. He felt that if this right was impinged upon, no constitutional right was safe. In 1885 he appointed a Catholic, A. M. Keiley, of Virginia, to be Minister to Austria-Hungary. The Emperor Franz Joseph, mouthpiece of bigots, held Keiley to be persona non grata because his wife was a Jewess. When Cleveland learned of this proscription he was infuriated. I can well picture him pounding with his fist the desk with a vehemence all the more enhanced because of his bulk, and saying, "Franz Josef will take Keiley with his Jewish wife, or I will be dashed if I send anyone else."

How refreshing, in the face of the tragic religious persecutions by that brute, Hitler, to read Cleveland's strictures upon such bigotry, which appear, in part, in his first annual message to Congress: "The reasons advanced were such as could not be acquiesced in without violation of my oath of office and the precepts of the Constitution * * * and required such an application of religious test as a qualification for office under the United States as would have resulted in the practical disenfranchisement of a large class of our citizens and the abandonment of a vital principle of our Government."

To clinch the idea that he meant business on the matter of religious rights and that he wanted the world to know it, he subsequently appointed Oscar S. Strauss, a Jew, as Minister to Turkey.

In 1887, Cleveland began a frontal attack upon the iniquitous high tariff. His advisors cautioned him. Protectionist States would turn away from him. His reelection would be imperiled. But with him it was "damn the torpedoes; full steam ahead." He said, "What is the use of being elected, and reelected, unless you stand for something?" With quiet firmness, he sent his message to Congress. It contributed largely to his subsequent defeat. He proved he would "rather be right than be President." He proved himself a statesman.

We do indeed do ourselves proud to honor the memory of this great and good man by suitable monument in this, the Nation's Capitol—this man who scrupulously followed his own admonition, "A public office is a public trust."

TENANTS MUST GET A BREAK, EVEN IF TUGWELL DID GET A COLLEGE DEGREE—RURAL RESETTLEMENT DESCRIBED

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MAVERICK. Mr. Speaker, the Nation has been washed with a billion barrels of bilge about "Tugwellian philosophy" from critics who know nothing of Tugwell and have nothing to offer except words. Great economic questions we settle by resorting to personalities. So I am going into "personalities" and talk about "brain trusters" in general and Tugwell in particular, then I will say something about the Rural Resettlement Administration, of which he is the administrator.

The Republicans, who have lately hired a curious assortment of "brain trusters" of their own, have been yowling about the Democratic "brain trust" for 3 years. In the meantime the Democratic "brain trusters" have had some real good, hard experience, and now the Republicans go get a new set of green academicians from north, south, east, west, and from over the cuckoo's nest.

ABOUT THAT "BRAIN TRUST"

In one sense the Democratic "brain trust" never existed. It is true that Moley, Berle, Tugwell, and others were asked to come to Washington to put at the disposal of the administration the benefits of their long years of study and research in the economic problems facing us 3 years ago. And it is true that a great deal has been said and written about their personal attributes, the color of their neckties, their habits—it has even been alleged one has clean fingernails—but what has been said about their work? What, for instance, is known about the Resettlement Administration, which Tugwell has spent this past year organizing and running?

Let us discuss Tugwell personally for a minute. In the first place, he has taken more criticism in the last 3 years than any man in the administration, and few have stood up to say a good word for him.

He came to Washington under the worst possible circumstances, with every Republican—and some good Democrats—denouncing him as a "college professor and a Communist"—usually used as synonymous. He had to take over the odds and ends of four other departments and relief agencies and whip together a new organization to handle one of the toughest jobs in the country. At every step he has had to fight a storm of abuse, which pictured him as some kind of wild man from Moscow.

Now, I have no special affection for "brain trusters", and the Resettlement Administration has not spent a penny in my district. Last summer, however, I got a chance to spend about 10 days with Tugwell, traveling around through Texas and Mexico, and I discovered that he was just about as human as anybody. He talks the American language. He reacts the same way to food, drink (coffee and so forth), and fatigue, and when he gets a beating he gets sore just like anybody else.

Rex is a good deal like the possums we used to catch when I was a kid on the farm. We would throw the possum into an old empty water barrel and poke him with sticks until he got somewhat irritated. Then when some boy came along and tried to lift him out of the barrel by his tail, he was pretty sure to get his hand bitten. Tugwell has been mauled around so much that he sometimes snaps back. He would not be human if he did not. On the other hand, if he ever was a doctor, he has been beat around so much he has learned how to take it; the doctor-fuzz has about worn off, and he has learned to be a good administrator.

But which is the more important, Tugwell or the Resettlement Administration; the lives and welfare of millions of farmers or abuse of an individual, even though he has been a professor with a couple of degrees? The answers are all obvious. Let us therefore consider the work of the Resettlement Administration, which Tugwell has established and is directing.

SIX MILLION FARM FAMILIES ASSISTED

He inherited parts of 4 distinct Federal agencies and more than 40 State rehabilitation corporations. He cut down administrative overhead by at least one-third, and he vastly increased the load carried by the old organizations. At the present time, over 600,000 farm families are being assisted by this Administration.

IS ADMINISTRATION EFFICIENT?

You hear it charged that the Resettlement Administration harbors inefficiency. An impartial comparison of the internal workings of this new agency with other emergency agencies and with older Government departments, the results of which have recently appeared in the press, make it plain that the work of consolidating the Resettlement Administration into a unified, driving, efficient arm of the Government has been largely achieved. Let me cite you here relevant parts of these articles appearing in the Washington Daily News a few days ago. I quote:

It is harder to get a job in the Resettlement Administration than in any other New Deal agency, with the exception of T. V. A.; Resettlement is the stingiest of all non-civil-service organizations in the matter of salaries.

This is the opinion of a majority of old-line personnel experts who have first-hand knowledge of Resettlement's procedure.

Resettlement is the only emergency agency which lets the Civil Service Commission dictate its salaries in Washington.

An unbiased, composite opinion, gathered from veteran Government officials in close contact with Resettlement, pictures the agency in this fashion: It started out under handicaps unprecedented in the Federal service and after acute disorder and dissension, has emerged as the equal in efficiency of the old A. A. A. organization. It is better than N. R. A. ever was, and not so good as some of the smaller establishments, such as T. V. A.

WORK ESSENTIAL, TUGWELL OR NO

The work the Resettlement Administration is doing is essential to this country, whether Tugwell is in the set-up or not. Many changes have combined to cause farm life in America to be entirely different from what it was even 20 years ago. We have lost a good part of our foreign markets, perhaps forever. The old pattern of independent land-owning farmers is now rapidly disappearing. The land runs together in larger blocks, and millions of landless tenants and croppers till the soil. Corporation farming threatens many of the independent owners who are still in possession of their land. With the growth of dependency in the country, the Nation loses a fundamental political strength.

There are millions of persons who live in cities, who have no land whatever, and who are possessed of next to nothing. Similar people in European countries are no worse off than millions of our own people. And we might as well be frank and face the fact that we have 12,000,000 people in this country who do not know how to read and write, who are adults.

RURAL POVERTY INCREASING IN NEW ENGLAND, NORTH, AND WEST

Land tenancy and rural poverty are worst in the southern part of the United States, but the condition has a long history in the rest of the country. It is now almost as great in the Middle West as in the South. Today nearly 15,000,000 farm people belong to tenant families. Here are the figures for the growth of tenant families during the last 5 years in Northern and Midwestern States:

Iowa	8,536
Ohio	16,166
Indiana	8,934
Illinois	10,374
Michigan	11,139
Wisconsin	8,164
Minnesota	10,774
Missouri	19,947

Tenancy is not growing as rapidly as this in the Southern States. It is surprising, but farm tenancy has been showing a marked increase in New England and the Eastern States during the last few years. The blight has grown in every State in the Union except four.

BROKEN FAMILIES AND RUINED LANDS GIVEN LIFE

These facts have a physical basis.

Our land is literally being shot out from under us, at the rate of 300 billion tons of soil a year. Already wind and water erosion has completely destroyed an area almost as large as the four States of Illinois, Ohio, Maryland, and North Carolina, and has stripped the topsoil off that much more. It took nature 4,000 years to build that soil. We threw it away in one lifetime. Altogether erosion has cost this Nation about 10 billion dollars, or almost as much as the entire war debt. That is a capital loss, and we can never get it back. In other words, this country has been squandering its heritage like a drunken cowboy spends his pay check, and we are just now beginning to realize how much the spree has cost us.

Through the Resettlement Administration, the American people are making their first efforts to stop these losses. The job is well under way, and any administration, Republican or Democratic, will have to keep on with it, no matter what men or what party may be in power.

PROGRAM OF RESETTLEMENT ADMINISTRATION

The long-term objectives of the Resettlement Administration are plain. Sooner or later it hopes to take about 100 million acres of submarginal land out of cultivation, and put it back into forest or grass. Working hand in hand with other Government agencies, it is trying to rescue 60 million acres of devastated timberland, and to nail down the flying soil in the dust bowl of the Southwest.

This indicates that 650,000 families will have to move or be moved away from land which is exhausted, or which should never have been brought under the plow. There is no longer an open frontier where these people can stake out new homesteads, and most of them have not got the money to move even if the frontier were there. Thousands of them, especially in the South, are lucky if they own a hound dog and a corn-shuck mattress. It is up to the Government to help them establish new homes, where they can make a decent American living.

THE JOB UNDER WAY

That is a big order and it may take the best part of a century to carry it out. Tugwell seems to have started the job in a cautious and sensible way, and so far he has made amazing progress. Right now the Resettlement Administration is engaged in buying up 9,000,000 acres of submarginal land scattered through 42 States. This property is being rebuilt into parks, forests, game preserves, and grazing land. Each one of the 206 land utilization projects is designed to stop erosion and put the soil to its best economic use. At every step Resettlement is cooperating with State and Federal agencies, such as the Soil Conservation Service and the State agricultural colleges. It has provided jobs for 70,000 relief workers. Some are building check dams and terraces to help save the most important asset this country owns; all are doing important work of absolutely necessary conservation.

There are about 17,000 families now living on the land to be retired. A few of these are able to buy or lease new farms without any help from the Government. The Resettlement Administration is trying to take care of the rest of them in a variety of ways. In some cases it is selling them new property on easy terms. In other parts of the country it is establishing subsistence homesteads, where the residents can spend part of their time working in factories and part in farming.

Here and there it is setting up new rural communities, where houses, schools, and utilities can be economically grouped together. Usually the settlers rent their new homes, with options to buy. Most of the money invested eventually will be returned to the Federal Treasury. Ninety resettlement projects have either been completed or are under construction, and 60 others are under preparation. More than 14,000 people already have been helped to make a new start in life on these resettlement projects.

SUBMARGINAL LANDS COST COUNTIES TOO MUCH

Whenever the Resettlement Administration takes a submarginal acre out of cultivation, it is saving cash money for the State and county. The average submarginal farm costs the local government a good deal more than it ever pays back in taxes. One typical county has been spending 13 times as much to maintain the roads to its submarginal farms as they pay back in revenue. In another county 28 stranded families have been costing local taxpayers $185 per household a year merely for the transportation of their children to and from

school. These families paid an average of $10.80 apiece in taxes. In other words, they have been receiving a subsidy of $5,000 a year for school-bus service alone.

In addition to its rural resettlement projects, the organization is building four suburban communities on the outskirts of crowded industrial cities. They are intended to demonstrate how city workers can be provided with modern low-rental homes in country surroundings. These 4 projects alone will give jobs to more than 20,000 relief laborers this summer, and when they are finished each community will furnish homes for from 750 to 1,000 families. They are typical examples of the way Resettlement is giving the Nation permanent assets in return for money spent on relief.

Here are the beginnings of a long-range, national program of conservation and resettlement, and, whether Tugwell lives or dies, that character of work must be done. The work which Tugwell is doing helps people whose voice we hear seldom in this House, so naturally he gets plenty of criticism. But the purposes are essential and he personally is doing a good job.

ADMINISTRATION SAVES FARM FAMILIES

At the same time, the Resettlement Administration is carrying out an emergency program, designed to take farming folks off the relief rolls as soon as possible. Under the old F. E. R. A., the Government kept about 1,000,000 rural families alive by a direct dole. They scraped along just this side of starvation, without any hope of getting back on their own feet.

These people were turned over to Resettlement last summer, and since then more than half a million of them have been rehabilitated into self-supporting families. In most cases, all they needed was a loan of from $50 to $600 to buy seed and livestock and tools. The average loan is slightly less than the average cost to keep a family on relief for a year, and most of the money paid out in loans will come back to the Government. The rehabilitation work has been so successful that already $11,000,000 of these loans have been repaid. Every time Resettlement boosts one of these cases off the relief rolls, it saves money to the taxpayer, and saves the self-respect of an American family.

Another way to help bankrupt farmers is to lift some of the old debt load off their backs. The Resettlement Administration has served as a go-between to help the farmer negotiate debt adjustments with his creditors. In the last 6 months, Resettlement has worked out reductions of $12,750,000 on a total indebtedness of $46,480,000.

A FEW EXAMPLES OF REHABILITATION

Most of the people who get resettlement help are hard-working Americans who have been forced to the wall by 6 years of depression. Just for an example, Leo Boller, of Sidell, Ill. He won first prize at the Chicago International Livestock Exposition in 1913 and 1914, and was crowned corn king of Illinois in both those years. Thirty-cent wheat broke Boller, just like it has broken hundreds of other first-rate farmers. He lost his land and just managed to keep his family from starving. In 1934 he got a $704 rehabilitation loan from the Government, and today he is back on his feet and farm making money.

Another typical case is R. C. Harrison, a war veteran with a large family, living in Hernando County, Fla. The Government helped him lease a farm and supplied him with a mule, cow, and wagon. He wrote Resettlement the other day to say that he had new faith in the country and that his family is going to stay off the relief rolls.

The Resettlement Administration is putting strong props under American agriculture, the weakest spot in our whole economic system. It is taking farm families off the dole and setting them up where they can make a respectable living. In so doing it makes a new market for the industries of the whole country. It is providing useful jobs for thousands of relief workers. Most important of all, Resettlement is making the first intelligent effort in the history of the United States to save the land this Nation is built on. Every Democrat can be proud of its record of accomplishment; and every citizen of this country can be satisfied that the work is essential to our national life.

FLOOD CONTROL

Mr. LORD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein an address I made before the Board of Army Engineers on flood control yesterday.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LORD. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address delivered by me in connection with the hearing on flood control for central-southern New York and northern Pennsylvania before the United States Army Board of Engineers at Washington, March 18, 1936:

I

The immediate need of the counties of central and southern New York and northern Pennsylvania for flood-control works has been established by the field report of the Army Engineers which is being considered before this Board today.

1. The need is so acute that the engineers in their report have declared the areas within the 1935 flood line should be designated as danger zones and no new construction should be undertaken inside of those zones until the full program of flood-control works recommended in their report has been carried out.

There was no doubt of this need when the President of the United States authorized this survey. It had been established by the death and destruction which swept the important industrial, agricultural, and residential sections embraced within this report on July 7, 8, and 9.

The floods rose in New York State; they swept into Pennsylvania.

The very Executive order which authorized the survey recognized the Federal nature of the task.

Late in January, long before this report was submitted, the Governor of the State of New York inquired of the President of the United States as to what expedition might be expected on the report of the engineers, pointing out that speed would be necessary if proper action were to be had out of this session of Congress for Federal authorization and appropriation.

I want to read to you what the President of the United States wrote to the Governor of the State of New York in answer to his inquiry, as the letter was made public by Governor Lehman and generally published February 5, 1936:

"MY DEAR GOVERNOR: I have your letter of January 23, in which you ask that the report of the War Department on the flood-control survey which it is now undertaking in southern New York and eastern Pennsylvania, be expedited so that it can receive consideration during the present session of Congress.

"I recall the disastrous floods of last July, which led to my approval of an allotment of $200,000 from the relief appropriations so that the survey could be placed under way last September, to obtain the information necessary in the preparation of a plan for adequate control measures.

"I am advised by the Chief of Engineers that the field work has been completed recently, and the final plans are now in course of preparation. The field report is expected in his office about February 15, 1936, for review by the Board of Engineers for Rivers and Harbors, as required by law, prior to its submission to Congress.

"He assures me that the action of the Board will be expedited, and the report submitted to Congress in ample time to receive consideration during the present session.

"He will advise you direct when the report is ready for submission to Congress, so that your representatives may have the opportunity to examine it in detail.

"Very sincerely yours,

"FRANKLIN D. ROOSEVELT."

Now, there cannot be any doubt as to what the intent and the expectation of Mr. Roosevelt was at the time to which he refers concerning his approval of the allotment for the survey.

And there can be no doubt as to what he intended the Governor of the State of New York, and the people of the State of New York, to believe when he said, speaking of the Chief of Engineers—

"He assures me that the action of the Board will be expedited and the report submitted to Congress in ample time to receive consideration during the present session."

Consideration for what? Consideration for rejection? Why all the haste if the President of the United States did not expect a report favoring adequate participation by the Federal Government? If no such report were expected, it wouldn't make much difference whether this session or any session of Congress got it.

The Governor of the State of New York was so pleased about it that he made the President's letter public.

That letter has been publicly interpreted in dozens of publications and by dozens of speakers, Democratic and Republican alike, as meaning that the Congress of the United States was going to do something about this situation in a State which for years has been contributing one-fifth of the moneys expended in flood control in other parts of the United States, not one penny of which has ever been spent by direct appropriation on Federal flood control in the State of New York.

I say that this interpretation has been general and public, and at no time has the President of the United States or the Governor

of New York State attempted to indicate that the interpretation was wrong in any respect. If the intention were not as it has been described and interpreted, both of them have had plenty of time to correct any public misapprehension. On the contrary, the Governor of the State of New York has encouraged the Legislature of the State of New York to go through with a program of State legislation which first and last is predicated upon the idea of Federal participation.

II

The United States Government has spent $374,117,092.04 on flood control in various parts of the United States and Alaska.

1. Some time ago I telephoned General Pillsbury and asked him for the official figures on total expenditure for flood control under the supervision of the engineering department during the past 25 years. This is the table of expenditures with which he provided me:

Mississippi River and tributaries	$336,965,583.32
Emergency work on tributaries of the Mississippi River	3,582,707.54
Sacramento River, Calif.	14,994,547.87
Muskingum Valley reservoirs, Ohio	1,885,941.76
Rio Grande, Tex.	41,833.84
Lowell Creek, Alaska	109,688.87
Salmon River, Alaska	27,445.10
Plant	16,509,343.74
Total	374,117,092.04

Compared with the sums which have been spent in the past few years by the Federal Government, that is not a large amount. I suspect that it has been more profitably spent than a great many other millions of dollars which have gone into enterprises and experiments nowhere near so valuable or so important.

III

To that total the State of New York has contributed approximately one-fifth, nearly $75,000,000 in round figures, because the State of New York pays 20.38 percent of the total sums which go into the maintenance of the Federal Government and the expenditure of Federal funds for various purposes throughout the United States.

IV

The industrial importance of the State of New York is commensurate with its importance as a taxpaying member of the Union.

You are being shown here today an industrial map of the United States. It does not look much like the map of the United States which we have come to know from our childhood days with the school geographies. A great many of the States are compressed to wafer-like layers, and other States, like Massachusetts, New York, Pennsylvania, and Ohio, are way out of shape, way out of proportion to the rest of the country, as the rest of the country is usually considered in geographical dimensions.

But if you were to make a tax map of the United States of America, the State of New York would occupy one-fifth of the entire area.

V

By comparison the State of New York is entitled to a far larger sum for flood control than is declared to be necessary in this report of the Army Engineers, and certainly it is entitled to much more than this $15,000,000 figure of justifiable economic outlay which is reached by some formula or another in this report.

1. Just as a matter of equality and justice, just as a matter of being fair, the State which has paid for one-fifth of all the flood-control work done in the continental United States during the past 25 years is entitled to consideration from the Federal Government.

There is no need in my calling your attention to the fact that the greater part of this $374,000,000 has been spent in flood-control measures in States which on this industrial map are slivers as compared with the great industrial and tax-paying block which represents the State of New York.

We have no quarrel with what has been spent in those States; we are not here to raise the question as to whether or not it was economically justified. We do not assume to apply to these non-industrial States the yardstick which must of necessity be applied to a great industrial State like New York. As a matter of fact, we insist that the yardstick applied to these other States does not fit the case of New York State at all. And we insist, too, that a State which has paid for one-fifth of all of the flood-control work done in the United States of America in the past 25 years should not have to come with its hat in its hand to any agency of Federal Government and beg for ordinary economic justice.

W. P. A. WORK RELIEF UNWISELY ADMINISTERED

Mr. JENKINS of Ohio. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. JENKINS of Ohio. Mr. Speaker, there is something wrong with the administration of public relief and with the method of selecting men for work on W. P. A. projects. Everyone knows that millions upon millions of dollars have been wasted. I could cite many instances of this kind of waste, but the purpose of these few remarks is to set forth the unfairness resulting from the regulations issued by the Public Works Administration as they apply to the men eligible to work on these projects and those ineligible to work.

At the present time many more men are employed under W. P. A. than under P. W. A. projects. Under present regulations controlling the employment of men on W. P. A. projects 90 percent of all men employed must come from the relief rolls. This is as it should be, but the trouble is that there are many people sorely in need of relief who are not getting it and who are not on the relief rolls and cannot get on the relief rolls. The regulations provide that no person can get work on W. P. A. projects unless he can show that he was on relief some time between the 1st of May 1935 and the 1st of November 1935. This means that those who were on relief during this time are to be greatly favored, although they might be able to get along without relief; and those who were not on relief at that time, regardless of how badly they need it now, cannot get it. This is a very unfair and unreasonable regulation. It is unfair to many who have done their best to stay off of relief, and when they have exhausted all means of support and have done the best they possibly can do they are punished for it by being denied relief which they so sorely need and to which they are entitled.

This long period of depression has tested the souls of our people like nothing else that has come into our national life except war. Many deserving persons, both men and women, who never thought the time would come when they must seek public relief have been compelled to seek it, and even more have been very thankful to receive it. Many have fought it off at the price of hunger and have strained their self-respect in order to provide their families with food. Many of these people are our best citizens. They have done their best, and they are entitled to relief. In our great country we have maintained that it is not proper for a person to take the position that the Government owes him a living. But it is generally considered that when an honorable law-abiding citizen has done the very best he can to provide for his family and fails because of ill health or unemployment, the public should see to it that he and his family do not want for the common necessities of life. Therefore, I say that it is very discouraging for a man to suffer in an effort to keep off of relief and to suffer more when he finds he has lost his all and that he is not eligible to public relief because he fails to ask for it when he was able to do without it. There is nothing that will encourage dissatisfaction with one's country like the knowledge that the country will not defend and protect its citizens when adversity overtakes them. On the other hand, there is nothing encourages patriotism like the thought that comes to one who has done his best for his country, that that country will do for him when adversity overtakes him. Our relief policy therefore discourages patriotism and encourages dissatisfaction.

We often hear complaints to the effect that there are many persons employed on these W. P. A. projects who are not deserving of help and who have plenty. No doubt there is much truth in these statements, while again there is much misrepresentation with reference to the matter. It is true that there are many persons engaged on these projects who are well able financially to get along without help. They should be removed promptly. They should be dismissed and censured for their greed, and it might not be unreasonable if they could be brought before a court for an explanation. Let us hope that there are not many of these. There is one class, though, that is now on relief that is frequently unjustly criticized. There are many on relief who would be glad to go off relief if they could, and woulld get off occasionally, but they are afraid that when they do get off they will not be able to get back on again. I have had many men tell me that this is their case. There are many who before May 1, 1935, went off relief to accept temporary work, believing they could be returned to the rolls when they had finished their work, but they were sadly disappointed when they were denied this privilege. Many of these men are now destitute and desperate. They did what appeared to be the right thing, and which was the right

thing, and now they find that if they had cheated they would be eligible to selection for W. P. A. work.

I have made every possible effort to have these regulations changed. I maintain that necessity for relief is a present condition. The fact that a person once had plenty does him no good when he is hungry. Hunger cannot be satisfied with the food that was consumed last May. Tennyson says, "Sorrow's crown of sorrow is remembering happier things." Likewise hunger is not satisfied by the knowledge that some time in the future food might arrive. I repeat, relief is a present condition and demands present action. Failure to recognize this fact just because it will disrupt the plan of relief is only a flimsy excuse. This unfair discrimination against honest and worthy people will never be removed until every man's case is considered upon its own merits. Of course, some general regulations are necessary; but when regulations work hardships, then we have an example of what is intended to be law becoming bureaucracy and tyranny.

I have heretofore made speeches on this subject before Congress, and I have had the matter up with Harry Hopkins, the Works Progress Administrator, but to no avail as yet. I intend to keep hammering on this injustice until a change is made. I invite the assistance of all other Congressmen who agree with me. Likewise I invite the assistance of all sincere Americans who agree with me, and there are millions of them. We all oppose wasteful extravagance, but we all maintain that the worthy needy must be cared for, and that the great majority of our people prefer to work if they can get it, and that the work should be divided among the deserving as their needs appear, without regard to whether they were on relief between May 1, 1935, and November 1, 1935. When a man and his family need help that is the time to help them.

EXTENSION OF REMARKS

Mr. BANKHEAD. Mr. Speaker, I ask unanimous consent that all Members speaking on the bill just passed may have 5 legislative days within which to extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. ROGERS of Oklahoma. Mr. Speaker, I ask unanimous consent that on tomorrow immediately after the reading of the Journal and the disposition of business on the Speaker's table I may address the House for 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. HOBBS (at the request of Mr. HILL of Alabama), indefinitely, on account of important official business.

To Mr. RUDD, indefinitely, on account of illness.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 31. Concurrent resolution to authorize the printing and binding of additional copies of House Document 755, Fifty-eighth Congress, second session, entitled "The Life and Morals of Jesus of Nazareth", by Thomas Jefferson; to the Committee on Printing.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2603. An act to provide for the adjustment and settlement of certain claims arising out of the activities of the Federal Bureau of Investigation.

BILL PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H. R. 9863. An act making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1937, and for other purposes.

ADJOURNMENT

Mr. BANKHEAD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 13 minutes p. m.) the House adjourned until tomorrow, Friday, March 20, 1936, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

724. A communication from the President of the United States, transmitting supplemental estimates of appropriations for the legislative establishment, United States Senate, for the fiscal years 1936 and 1937, in the sum of $10,000 (H. Doc. No. 428); to the Committee on Appropriations and ordered to be printed.

725. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the fiscal year ending June 30, 1936, for the Forest Service, Department of Agriculture, amounting to $200,000 (H. Doc. No. 429); to the Committee on Appropriations and ordered to be printed.

726. A communication from the President of the United States, transmitting seven supplemental estimates of appropriations for the Navy Department for the fiscal year 1936, aggregating $2,252,225.20, a deficiency estimate for the fiscal year 1923 for $28.95, and a proposed provision to amend an appropriation for the fiscal year 1936 (H. Doc. No. 430); to the Committee on Appropriations and ordered to be printed.

727. A communication from the President of the United States, transmitting five supplemental estimates of appropriation, totaling $5,080,000, for the fiscal year ending June 30, 1936, for the War Department, together with a draft of a proposed provision pertaining to an existing appropriation of that Department (H. Doc. No. 431); to the Committee on Appropriations and ordered to be printed.

728. A letter from the Acting Secretary of the Navy, transmitting a draft of a proposed bill for the relief of the Charles T. Miller Hospital, Inc., at St. Paul, Minn.; Dr. Edgar R. Herrmann; Ruth Kehoe, nurse; and Catherine Foley, nurse; to the Committee on Claims.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. BLAND: Committee on Merchant Marine and Fisheries. S. 3467. An act amending the Shipping Act, 1916, as amended; without amendment (Rept. No. 2205). Referred to the House Calendar.

Mr. WALTER: Committee on the Judiciary. H. R. 11454. A bill to incorporate the Veterans of Foreign Wars of the United States; with amendment (Rept. No. 2206). Referred to the House Calendar.

Mr. SWEENEY: Committee on the Post Office and Post Roads. H. R. 10267. A bill to provide for adjusting the compensation of division superintendents, assistant division superintendents, assistant superintendents at large, assistant superintendent in charge of car construction, chief clerks, assistant chief clerks, and clerks in charge of sections in offices of division superintendents in the Railway Mail Service, to correspond to the rates established by the Classification Act of 1923, as amended; with amendment (Rept. No. 2207). Referred to the Committee of the Whole House on the state of the Union.

Mr. AYERS: Committee on Indian Affairs. H. R. 6019. A bill authorizing an appropriation for payment to the Uintah, White River, and Uncompahgre Bands of the Ute Indians in the State of Utah for certain coal lands, and for other pur-

poses; with amendment (Rept. No. 2208). Referred to the Committee of the Whole House on the state of the Union.

Mr. MOTT: Committee on the Public Lands. H. R. 9485. A bill to convey certain lands to Clackamas County, Oreg., for public-park purposes; without amendment (Rept. No. 2209). Referred to the Committee of the Whole House on the state of the Union.

Mr. MOTT: Committee on the Public Lands. H. R. 9654. A bill to authorize the purchase by the city of Scappoose, Oreg., of a certain tract of public land revested in the United States under the act of June 9, 1916 (39 Stat. 218); without amendment (Rept. No. 2210). Referred to the Committee of the Whole House on the state of the Union.

Mr. GREEVER: Committee on the Public Lands. H. R. 9997. A bill granting a leave of absence to settlers of homestead lands during the year 1936; without amendment (Rept. No. 2211). Referred to the Committee of the Whole House on the state of the Union.

Mr. WHITE: Committee on the Public Lands. H. R. 11561. A bill relating to the establishment and operation of grazing districts in the State of Nevada; without amendment (Rept. No. 2212). Referred to the Committee of the Whole House on the state of the Union.

Mr. STUBBS: Committee on the Public Lands. H. R. 10106. A bill to designate the Sequoia tree (Sequoia gigantea) as the national tree of the United States; without amendment (Rept. No. 2213). Referred to the House Calendar.

Mr. GREGORY: Committee on the Judiciary. H. R. 11663. A bill to require reports of receipts and disbursements of certain contributions, to require the registration of persons engaged in attempting to influence legislation, to prescribe punishments for violation of this act, and for other purposes; without amendment (Rept. No. 2214). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLAND: A bill (H. R. 11915) to amend the Coastwise Load Line Act of 1935; to the Committee on Merchant Marine and Fisheries.

By Mr. CARY: A bill (H. R. 11916) to authorize the transfer of a certain piece of land in Muhlenberg County, Ky., to the State of Kentucky; to the Committee on Military Affairs.

By Mr. CELLER: A bill (H. R. 11917) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto; to the Committee on the Judiciary.

By Mr. DOCKWEILER: A bill (H. R. 11918) providing for an additional military academy, and for other purposes; to the Committee on Military Affairs.

By Mr. ELLENBOGEN: A bill (H. R. 11919) to provide for the victims of floods, and for other purposes; to the Committee on Appropriations.

By Mr. McSWAIN (by request): A bill (H. R. 11920) to increase the efficiency of the Air Corps Reserve; to the Committee on Military Affairs.

By Mr. RISK: A bill (H. R. 11921) to authorize a preliminary examination of the Blackstone, Seekonk, Moshassuk, and Woonasquatucket Rivers and their tributaries in the State of Rhode Island, with a view to the control of their floods; to the Committee on Flood Control.

By Mr. McSWAIN (by request): A bill (H. R. 11922) to amend the act of May 25, 1933 (48 Stat. 73); to the Committee on Military Affairs.

By Mr. MAAS: A bill (H. R. 11923) to provide for the appointment of midshipmen in the Naval Academy through civil-service examination; to the Committee on Naval Affairs.

Also, a bill (H. R. 11924) to authorize the appointments of cadets at the Military Academy through civil-service examination; to the Committee on Military Affairs.

Also, a bill (H. R. 11925) to amend an act entitled "An act to regulate the strength and distribution of the line of the Navy, and for other purposes", approved July 22, 1935; to the Committee on Naval Affairs.

By Mr. UMSTEAD: A bill (H. R. 11926) to provide for a term of court at Durham, N. C.; to the Committee on the Judiciary.

By Mr. MONAGHAN: A bill (H. R. 11927) to prohibit evil practices in some Federal agencies; to the Committee on the Judiciary.

By Mr. KERR: A bill (H. R. 11928) to authorize a compact and agreement among any of the States in which tobacco is produced providing for the control of production of, or commerce in, tobacco in such States; to regulate the movement of tobacco in interstate and foreign commerce; to provide for loans to associations of tobacco producers; and for other purposes; to the Committee on Agriculture.

By Mr. BIERMANN: A bill (H. R. 11929) granting to the State of Iowa for State park purposes certain land of the United States in Clayton County, Iowa; to the Committee on Agriculture.

By Mr. CALDWELL: Resolution (H. Res. 454) to amend rule X of the rules of the House of Representatives; to the Committee on Rules.

By Mr. SNYDER of Pennsylvania; Joint resolution (H. J. Res. 530) proposing an amendment to the Constitution of the United States relative to taxes on certain incomes; to the Committee on the Judiciary.

By Mr. HAINES: Joint resolution (H. J. Res. 532) for the establishment of a commission in commemoration of the seventy-fifth anniversary of the Battle of Gettysburg in 1938; to the Committee on Military Affairs.

By Mr. MORITZ: Joint resolution (H. J. Res. 533) to provide for relief of the floods in Allegheny County, Pa.; to the Committee on Appropriations.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Alabama, urging the repeal of the Federal gasoline tax; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEAM: A bill (H. R. 11930) for the relief of Albert William Messa; to the Committee on Naval Affairs.

Also, a bill (H. R. 11931) for the relief of George P. Ryan; to the Committee on Naval Affairs.

By Mr. COLLINS: A bill (H. R. 11932) granting an increase of pension to Addie Allen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11933) granting a pension to Kittia A. Love; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11934) granting an increase of pension to Mary Lehnen; to the Committee on Invalid Pensions.

By Mr. GASQUE: A bill (H. R. 11935) for the relief of Luvenia Flowers; to the Committee on Claims.

By Mr. GRAY of Pennsylvania: A bill (H. R. 11936) granting a pension to Bertha Calhoun; to the Committee on Invalid Pensions.

By Mr. KINZER: A bill (H. R. 11937) granting an increase of pension to Celestial R. Crall; to the Committee on Invalid Pensions.

By Mr. MAVERICK: A bill (H. R. 11938) for the relief of Samuel Richard Mann; to the Committee on Military Affairs.

By Mr. MILLARD: A bill (H. R. 11939) for the relief of Joseph Richard Collins; to the Committee on Naval Affairs.

By Mr. O'LEARY: A bill (H. R. 11940) conferring jurisdiction on certain courts of the United States to hear and determine the claim of the owner of the coal hulk *Callixene*, and for other purposes; to the Committee on War Claims.

By Mr. RANKIN: A bill (H. R. 11941) for the relief of L. S. Snipes; to the Committee on Claims.

By Mr. ROBSION of Kentucky: A bill (H. R. 11942) granting a pension to Phina McCrary; to the Committee on Invalid Pensions.

By Mr. WITHROW: A bill (H. R. 11943) to amend and correct the military record of Frank Schneider; to the Committee on Military Affairs.

By Mr. MERRITT of New York: Joint Resolution (H. J. Res. 531) to provide for the coinage of a medal in commemoration of the heroic service of Einer William Sundstrom, captain of the steamship *Dixie*, and his courageous and efficient crew; to the Committee on Coinage, Weights, and Measures.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

10562. By Mr. DORSEY: Petition of employees of S. W. Evans & Son, 4623 Paul Street, Philadelphia, Pa., protesting against the increase in the importation of Japanese umbrella frames and Japanese umbrellas which have seriously affected the industry in this country; to the Committee on Ways and Means.

10563. By Mr. RISK: Resolution of the Board of Aldermen of the City of Newport, R. I., requesting that the headquarters for the fourth district of the First Corps Area of the Civilian Conservation Corps be retained at Fort Adams in Rhode Island; to the Committee on Military Affairs.

10564. Also, resolution of the Newport Post No. 7, American Legion, requesting that the historic frigate *Constellation* be retained at its present home port Newport, R. I.; to the Committee on Naval Affairs.

10565. By Mr. SADOWSKI: Petition of the Mackinac Straits Bridge Association, held at Petoskey, Mich., March 5, 1936, asking that financial support be given toward building a bridge across the Straits; to the Committee on Appropriations.

10566. Also, petition of the William Locher Chapter, Michigan Division of the Izaak Walton League, endorsing Senate bills 3958 and 3959; to the Committee on Merchant Marine and Fisheries.

10567. Also, petition of the William Locher Chapter, Michigan Division of the Isaak Walton League, protesting against the draining of certain portions of the State; to the Committee on Merchant Marine and Fisheries.

10568. By Mr. TREADWAY: Petition of patrons of star route no. 4156, Orange to Cooleyville, Mass., favoring enactment of legislation to extend indefinitely all existing star-route contracts and to increase compensation thereon to an equal basis with that paid for other forms of mail transportation; to the Committee on the Post Office and Post Roads.

SENATE

FRIDAY, MARCH 20, 1936

(Legislative day of Monday, Feb. 24, 1936)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, March 19, 1936, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

COMMITTEE SERVICE

Mr. ROBINSON. I request the attention of the Senator from Oregon [Mr. MCNARY]. I ask that there be assigned to the vacancies on behalf of the majority on the Committee on Expenditures in the Executive Departments the Senator from Nevada [Mr. PITTMAN] and the Senator from Kentucky [Mr. BARKLEY].

The VICE PRESIDENT. Is there objection?

Mr. MCNARY. Mr. President, of course I have nothing to say about vacancies in the Democratic representation on committees or how they may be filled, but I should like to ask the Senator if the assignments now suggested conform to the proportion of Democrats and Republicans on committees which has been agreed upon?

Mr. ROBINSON. It does. There are two Democratic vacancies on the committee, and I am merely asking that they be filled.

Mr. MCNARY. How many Republicans are on the committee?

Mr. ROBINSON. There are two.

Mr. MCNARY. And the request of the Senator from Arkansas, if agreed to, will make how many Democrats?

Mr. ROBINSON. It will make five.

Mr. MCNARY. That works out the proportion heretofore agreed to, and I have no objection.

The VICE PRESIDENT. Without objection, the order requested by the Senator from Arkansas is agreed to.

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	La Follette	Radcliffe
Ashurst	Costigan	Lewis	Reynolds
Austin	Davis	Logan	Robinson
Bachman	Dickinson	Lonergan	Russell
Bailey	Donahey	Long	Schwellenbach
Barbour	Duffy	McGill	Sheppard
Barkley	Fletcher	McKellar	Shipstead
Benson	Frazier	McNary	Smith
Bilbo	George	Maloney	Steiwer
Black	Gibson	Metcalf	Thomas, Okla.
Brown	Glass	Minton	Thomas, Utah
Bulkley	Gore	Murphy	Townsend
Bulow	Guffey	Murray	Vandenberg
Burke	Hale	Neely	Van Nuys
Byrd	Harrison	Norbeck	Wagner
Byrnes	Hatch	Norris	Walsh
Capper	Hayden	Nye	Wheeler
Caraway	Holt	O'Mahoney	White
Chavez	Johnson	Overton	
Clark	Keyes	Pittman	
Connally	King	Pope	

Mr. VANDENBERG. I announce that my colleague the senior Senator from Michigan [Mr. COUZENS] is unavoidably detained at his home by illness. I ask that the announcement stand for the day.

Mr. TOWNSEND. I announce that my colleague the senior Senator from Delaware [Mr. HASTINGS] is unavoidably detained from the Senate, and I ask that the announcement stand for the day.

Mr. LEWIS. I announce the absence of the Senator from Alabama [Mr. BANKHEAD], the Senator from Florida [Mr. TRAMMELL], and the Senator from Rhode Island [Mr. GERRY], caused by illness; and I further announce that the Senator from Washington [Mr. BONE], the Senator from Massachusetts [Mr. COOLIDGE], my colleague the junior Senator from Illinois [Mr. DIETERICH], the Senator from Nevada [Mr. MCCARRAN], the Senator from Maryland [Mr. TYDINGS], the Senator from California [Mr. MCADOO], the Senator from Missouri [Mr. TRUMAN], and the Senator from New Jersey [Mr. MOORE] are unavoidably detained from the Senate. I ask that this announcement may stand of record for the day.

The VICE PRESIDENT. Eighty-one Senators have answered to their names. A quorum is present.

THE LATE SENATOR HUEY P. LONG

Mr. THOMAS of Oklahoma. Mr. President, on January 22 the distinguished senior Senator from Louisiana [Mr. OVERTON] delivered in the Senate an eloquent tribute to the memory of one of our former colleagues, the late Senator Huey P. Long.

On that occasion I made a brief statement, and intended at the time to ask the Senate for permission to have printed in connection with my remarks a copy of the eloquent funeral oration delivered at the grave of Senator Long by the Reverend Gerald L. K. Smith.

I now ask unanimous consent to have a copy of the oration printed in the RECORD.